Supreme Court, U.S.
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No. _____

In The

Supreme Court of the United States

October Term, 1995

RAYMOND JACKSON

Petitioner,

v.

SHIRLEY S. CHATER,
COMMISSIONER OF SOCIAL SECURITY

Respondent.

Petition For A Writ Of Certiorari
To The United States Court Of Appeals
For The Eleventh Circuit

PETITION FOR A WRIT OF CERTIORARI

Raymond Jackson
Counsel of Record
225 Conrad Street
Montgomery, Alabama 36110
(334) 265-8801

August 15, 1996

QUESTIONS PRESENTED FOR REVIEW

In the face of conflicting Circuit Court standards, as they relate to the Congressionally-mandated requirements of 42 USCS 416(i)(1) and (2); 42 USCS 423(d)(1)(A), (1)(B), (2)(A), (2)(B) and 5(B); 42 USCS 405(b)(1), 42 USCS 421(K)(1) and (C)(3)(a), 42 USCS 405(g); 42 USCS 405(U)(1)(B); 20 CFR 404.1520a(1); 20 CFR 404.1523; 20 CFR 404.1525; 20 CFR 404.1526; 20 CFR Part 404, Subpt P, Section 2.00(A)(7), App. 1; 20 CFR Part 404, Subpart P, Section 2.03(B), App. 1; 20 CFR Part 404, Subpt P, Section 9.08(B), App 1; 20 CFR Part 404, Subpart P, Section 5.08(B)(4), App 1; 20 CFR Part 404, Subpart P, Section 8.04, App 1; 20 CFR 416.920(d); 20 CFR 416.920a(a) and 20 CFR 404.1520(d), the standards set forth are not administered to the Disability Insurance Benefits Program in a uniform manner. The questions presented are whether the appropriate standards were used and:

I.

WHETHER THE COMMISSIONER OF SOCIAL SECURITY IMPROPERLY USED THE MEDICAL-VOCATIONAL GUIDELINES (20 CFR PART 404, SUBPART P, APPENDIX 2) TO FIND THAT CLAIMANT, WHO SUFFERS FROM A URINARY DISORDER, IS NOT DISABLE?

II.

WHETHER THE COMMISSIONER OF SOCIAL SECURITY DID NOT MAKE EVERY REASONABLE EFFORT TO OBTAIN FROM THE INDIVIDUALS, TREATING PHYSICIAN (OR OTHER TREATING HEALTH CARE PROVIDER) ALL MEDICAL EVIDENCE, INCLUDING DIAGNOSTIC TESTS, NECESSARY IN ORDER TO PROPERLY MAKE SUCH DETERMINATION, PRIOR TO EVALUATING MEDICAL EVIDENCE OBTAINED FROM ANY OTHER SOURCE ON A

CONSULTATIVE BASIS, COMPELS THE CONCLUSION THAT THE COMMISSIONER'S DECISION IS NOT SUPPORTED BY SUBSTANTIVE EVIDENCE ON THE RECORD AS A WHOLE AND IS GROUNDS FOR REVERSAL?

III.

WHETHER COMMISSIONER OF SOCIAL SECURITY DID NOT DEVELOP THE MEDICAL RECORDS FULLY IN VARIOUS WAYS, INCLUDING FAILING TO OBTAIN MEDICAL RECORDS FROM ALL THE MEDICAL PROVIDERS, WHOSE NAMES AND ADDRESSES APPELLANT SUPPLIED TO THE COMMISSIONER AND PARTICULARLY FAILED TO DEVELOP EVIDENCE REGARDING CLAIMANT MEDICAL PROBLEMS WITH STRESS?

IV.

WHETHER COMMISSIONER OF SOCIAL SECURITY'S DECISION DENYING APPELLANT'S DISABILITY BENEFITS RESULTS FROM USE OF IMPROPER LEGAL STANDARDS, AND INCORRECT APPLICATION OF LAWS AND REGULATIONS TO THE FACTS OF APPELLANT'S CASE, INCLUDING REJECTION OF THE CLAIM BECAUSE CLAIMANT EXPERIENCED NO END ORGAN DAMAGE OR HAS NOT EXPERIENCED SIGNIFICANT END ORGAN DAMAGE?

V.

WHETHER COMMISSIONER OF SOCIAL SECURITY'S FINDINGS OF FACTS ARE SUPPORTED BY SUBSTANTIAL EVIDENCE ON THE RECORD AS A WHOLE AND ARE CONCLUSIVE?

VI.

WHETHER THE COMMISSIONER OF SOCIAL SECURITY'S INCOMPLETE CERTIFIED COPY OF THE TRANSCRIPT OF RECORD (I.E. SECRETARY OF HEALTH AND HUMAN SERVICES' CERTIFICATION

#93-244 FOR CIVIL ACTION NO. 93-A-648-N, DATED 7/8/93), INCLUDING EVIDENCE UPON WHICH THE FINDINGS AND DECISIONS COMPLAINED OF ARE BASED, IS GROUNDS FOR REVERSAL?

VII.

WHETHER THE CLAIMANT IS DISABLED, IF CLAIMANT'S IMPAIRMENT(S) IS SEVERE AND MEET THE STATUTORY DURATION REQUIREMENTS?

VIII.

WHETHER THE COMMISSIONER OF SOCIAL SECURITY MET THE STATUTORY REQUIREMENT TO CONSIDER, PROPERLY EVALUATE AND ADEQUATELY EXPLAIN THE COMBINED EFFECT OF ALL THE INDIVIDUAL'S SEVERE IMPAIRMENTS, INCLUDING URINARY INCONTINENCE, GLAUCOMA, DIABETES MELLITUS, HIGH BLOOD PRESSURE, GOUT, STRESS, AND DERMATITIS, PRIOR TO DENYING THE DISABILITY CLAIM?

IX.

WHETHER APPELLANT'S CONSTITUTIONAL RIGHTS WERE PREJUDICED BY COMMISSIONER OF SOCIAL SECURITY CHANGING CLAIMANT'S APPLICATION FOR DISABILITY INSURANCE BENEFITS TO CLAIM FOR DISABILITY MEDICARE COVERAGE?

X.

WHETHER APPELLANT HAS BEEN UNABLE TO ENGAGE IN ANY SUBSTANTIAL GAINFUL ACTIVITY BY REASON OF MEDICALLY DETERMINABLE PHYSICAL AND MENTAL IMPAIRMENT, SINCE THE CORRECT ONSET DATES OF THE SEVERE IMPAIRMENTS?

XI.

WHETHER COMMISSIONER OF SOCIAL SECURITY SHALL DISREGARD ANY EVIDENCE IF THERE IS REASON TO BELIEVE THAT FRAUD OR SIMILAR

FAULT WAS INVOLVED IN PROVIDING SUCH EVIDENCE AND MAKE IMMEDIATE REDETERMINATION OF ENTITLEMENT FOR APPELLANT'S APPLICATION FOR DISABILITY INSURANCE BENEFITS?

XII.

WHETHER APPELLANT IS DISABLED IF APPELLANT'S IMPAIRMENT(S) MEET THE DURATION REQUIREMENT AND IS LISTED IN APPENDIX 1 OF 20 CFR, PART 404, SUBPT. P OR IS EQUAL TO LISTED IMPAIRMENT(S)?

XIII

WHETHER CLAIMANT SHOULD BE FOUND QUALIFIED FOR DISABILITY BENEFITS ON GROUNDS THAT PRESENT DISABILITY IS CLEARLY AND DIRECTLY TRACEABLE TO CONDITION HAVING ITS INCEPTION WHEN CLAIMANT WAS COVERED BY DISABILITY INSURANCE?

XIV

WHETHER COMMISSIONER OF SOCIAL SECURITY BREACHED HER DUTY BY NOT DETERMINING THE STATUTORY MEDICAL EQUIVALENT OF A LISTED IMPAIRMENT FOR CLAIMANT'S 11 IMPAIRMENTS?

XV

WHETHER UNITED STATES DISTRICT COURT BREACHED ITS DUTY BY FAILING TO GRANT OR DENY APPROXIMATELY 17 OF CLAIMANT'S OBJECTIONS TO ITS DECISION.

XVI

WHETHER COMMISSIONER OF SOCIAL SECURITY'S DECISION SHOULD BE REVERSED FOR ADMINISTRATIVE LAW JUDGE'S FAILURE TO FAIRLY STATE THE SEVERITY OF DIABETES MELLITUS?

LIST OF PARTIES PURSUANT TO RULES 14.1(b) AND 29.1

Petitioner, Raymond Jackson filed suit on his own behalf and on behalf of his wife, Rogers Mae Jackson; his son, Peter Nickalus Jackson; his daughter, Stephanie Rogers Jackson and his grandson Dwight Allen Love. The Commissioner of Social Security, Shirley Chater, is the respondent.

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APPENDICES

App No.	Appendix Description
1a	United States Court of Appeals for Eleventh Circuit's Order, filed 6/4/96

APPENDICES

App No.	Appendix Description
2a	United States Court of Appeals for Eleventh Circuit's Order, filed7/31/95
3a	United States District Court's Order, filed 7/5/94
4a	Action of Appeals Council on Request for Review, filed March 26, 1993
6a	Decision for Disability Medicare Coverage (Government Employee), filed 9/23/92
13a	Civil Action No. 93-A-648-N, filed 5/21/93
14a	Secretary of Health and Human Services Answer, filed 9/8/93
15a	None
16a	Disability Report, filed 7/16/90
25a	Report of Medical Examination, dated 3/31/71
27a	Medical Report and Diagnosis of Glaucoma, dated 6/8/71
28a	Department of Veterans Affairs 30% and 50% Rating Decisions, dated 6/28/90
30a	42 USCS 416(i)(1) Disability; Period of Disability
31a	Department of Veterans Affairs 20% Rating Decision, dated 5/7/85

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32a	42 USCS 423(d) "Disability" defined, paragraphs 1(A), 1(B), 2(A), 2(B) and 5(B)
33a	20 CFR 416.920(d) Evaluation of disability of adults-when your impairment(s) meets or equals a listed impairment in Appendix 1
33a	20 CFR 416.920a(a) Evaluation of mental impairments (a)
33a	20 CFR 404.1520(d) Evaluation of Disability in General-when your impairment(s) meets or equals a listed impairment in appendix 1
33a	20 CFR 404.1520a Evaluation of mental impairments (a). General
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App No.	Appendix Description
38a	20 CFR 404, Subpt P, Section 2.03(B) Contraction of Peripheral Visual fields in the Better eye
38a	20 CFR 404, Subpt P, Section 9.08(B) Diabetes Mellitus (acidosis)
38a	20 CFR 404, Subpt P, Section 5.08(B)(4) Weight Loss due to uncontrolled Diabetes Mellitus with hyperglycemia.
38a	20 CFR 404, Subpt P, Section 8.04 Deep Mycotic Infections
39a	Application for Disability Insurance Benefits, filed 7/16/90
40a	Disability Determination Rationale, dated 1/4/91
41a	Facts About Your Social Security, dated February 2, 1989
42a	Tuskegee VA Medical Center Clinical Laboratory Report, dated 8/14/92

STATEMENT OF THE CASE

Claimant has had urinary incontinence, a nonexertional impairment, since August 14, 1992 (see Appendix 6a, paragraph 10, sentence 15). Additionally, claimant has several severe exertional impairments, i.e. glaucoma, gout, high blood pressure, dermatitis and diabetes mellitus (see Appendix 6a, paragraph 12, sentence 1). On September 23, 1992, the Administrative law Judge used the residual functional capacity of "medium work" as set forth in 20 CFR, Part 404, Subpart P, section 203-00 (maximum sustained work capability limited to medium work as a result of severe medically determinable impairment(s)) to support finding #5, which states that "claimant has not been precluded from performing "medium work" for any prolonged period which lasted or could be expected to last for at least 12 continuous months" and to declare claimant not disable (see Appendix 6a, paragraph 18, sentence #2). Urinary incontinence is a nonexertional impairment not taken into account by medical-vocational guidelines (20 CFR part 404, subpart P, appendix 2), as are exertional impairments. Therefore the rules of 20 CFR, part 404, subpart P, table no. 3-Residual Functional capacity: maximum sustained work capability limited to medium work as a result of severe medically determinable impairment(s), Appendix 2, do not apply to claimant's case. Consequently, the administrative law judge erred by using the "medium work standard" to declare claimant not disable.

On September 23, 1992, the Administrative Law Judge made findings of fact that claimant's vocational factors are: age 58, education: high school education, college degree and two post-graduate degrees; and work experience (past relevant work): research analyst, operations analyst, logistics specialist and supply systems analyst (see Appendix 6a, paragraph 3). The record clearly shows that claimant's work experience does not include research analyst, operations analyst, logistics specialist. Therefore, 75 percent of work experience vocational factor is

erroneous. Where any one of the finding of fact does not coincide with the corresponding criterion of a rule, the rule does not apply in that particular case and, accordingly, does not direct a conclusion of disabled or not disabled. (See 20 CFR Part 404, Subpt, P, Sec. 200.00 (a) sentence 5). The erroneous work experience vocational factor does not coincide with the corresponding criterion for any previous work experience of Rules 203.10 to 203.17, Table 3, 20 CFR 404, Supbt. P, Appendix 2, and these rules do not apply. The administrative law judge failed to identify claimant's specific vocational profile and assess the impact of claimant's stress problems. Clearly, claimant's erroneous specific vocational profile is not listed in Appendix 2. If an individual specific profile is not listed within this appendix, a conclusion of disabled or not disabled is not directed. (20 CFR, 404, Supbt. P, Sec 200.00(d), sentence 2. Clearly, the Administrative Law Judge's decision of not disable is a misapplication of the legal standard and the law.

Lastly, case law states that "Urinary incontinence is nonexertional not taken into account by Medical-Vocational Guidelines (20 CFR part 404, Subpart P, App 2), and its presence, if proven, precludes use of guidelines to find that claimant is not disable. Mac v. Sullivan (1993, Ed Pa) 1993 U.S. Dist. (Exis 206.) The presence of urinary incontinence associated with diabetes mellitus (App 6a, para 12, sentence 1), is proven at appendix 6, paragraph 10, sentence 15, paragraph 13, sentence 9 and paragraph 11, sentences #5 and #7. Clearly, the Commissioner of Social Security decision of not disable should be reviewed and reversed.

Additionally, on July 16, 1990, claimant provided the Secretary of health and Human Services (now Commissioner of Social Security) the names, addresses, phone numbers of six (6) Veterans Medical Centers and doctors who had treated claimant's Glaucoma from 1977 to 1989 (see entries #3, 6, 7, 8, 14 and 15, pages 88 and 89 of Secretary of Health and Human Services' Certification #93-244 for Civil Action number 93-A-

0648-N, dated July 8, 1993), but the Commissioner failed to make every reasonable effort to obtain all medical evidence from claimant file at the Veterans Administration Centers, including Veterans Administration Approval of 20 percent combined disabilities (i.e. 20 percent for loss of field of vision and 0 percent for dermatophysis) filed May 7, 1985 and effective 12/1/84 (see App 3/a) ; 30 percent for Glaucoma with bilateral visual field impairment, effective 11-4-88 and 50 percent Glaucoma with bilateral visual field impairment, effective 10/6/89 (see App 28a, page 2). Clearly, the Commissioner of Social Security failed to comply with the legal standards set forth in 42 USCS 423(d)(5)(B) Sentence #2, which compels the conclusion that the Commissioner's decision is not supported by substantial evidence, not conclusive and is grounds for reversal. Certiorari is warranted.

Claimant's correct onset date for Glaucoma is March 31, 1971, as stated on claimant's Disability Report, filed 7/16/90, line 1, (App 16a) page 87 of Secretary of Health and Human Services' Certification #93-244 for Civil Action number 93-A-0648-N, dated July 8, 1993 and as documented on claimant's United States Navy Report of Medical Examination, dated 3/31/71 (see App 25a, line 24) and on U.S. Navy medical Report on June 8, 1971 (see App 27a). On July 16, 1990, claimant provided the Commissioner of Social Security the name, address, phone number of the United States Navy doctor (i.e. Dr. David Bisno, LCDR, MC USNR, Head, Optometry Branch, Naval Aerospace Medical Institute, Naval Aerospace Medical Center, U.S. Naval Air Station, Pensacola, Florida 32512) (see entry 19, page 28, App 16a or page 89 of Secretary of health and Human Services' Certification #93-244 for Civil Action Number 93-A-0648-N, dated July 8, 1993). Certification #93-244 Clearly shows that the Secretary of Health and Human Services (now Commissioner of Social Security) failed to make every reasonable effort to obtain from Dr. Bisno, claimant's initial treating physician for Glaucoma, all medical evidence,

including diagnostic tests, necessary in order to properly make such determination, prior to evaluating medical evidence obtained from any other source on a consultative basis, which is contrary to legal standards set forth in 42 USCS 423(d)(5)(B), sentence #2. Therefore Certiorari is warranted.

The September 23, 1992 Administrative law Judge's decision (App 6a) makes no reference to medical records of all doctors who treated claimant's Glaucoma, including entry #3, Dr. Thomas Turner, VA Medical Center in 1989; Entry #6, Dr Harry R. Ori, VA Medical Center, in 1988; Entry #7-Dr. Martinez, VA Medical Center, in 1988, Entry #8-Dr. Wilfrido Herrero, VA Medical Center, in 1986 and 1987, Entry #11, Dr. Edward Kinkopf, 1985; Entry #12, Dr Charles F. Schrimpf, in 1982, 1983 and 1984; Entry # 13 Dr. Ralph C. Dilorio, Southern Eye Clinic, in 1981; Entry #16 Dr. Rosenthal, Stanford Medical Center, in 196; Entry #17, Dr. Robert L. Weisman, 1971-1975; and Entry #19, Dr. David Bisno, LCDR, MS USNR, Head-Optometry Branch, 3-30-71 to 6/23/71 and Entry #18, Fr. Fisher, in 1972 (see claimant's Disability Report, filed 7/16/90, App 16a pages 2A and 2B, or Secretary of Health and Human Services' Certification #93-244 for Civil Action 93-0648, filed July 9, 1993, pages 88 and 89). Therefore, the commissioner failed to develop the cited medical records as well as evidence related to claimant medical problems with stress. Clearly the commissioner's decision are contrary to the legal standards set forth in 42 USCS 423(d)(5)(B), sentences #1 and #2 and 42 USCS 405(g), sentence #5. Additionally, the Commissioner used improper legal standards and misapplied laws to the facts of this case to deny disability benefits, which compels the conclusion that the Commissioner's decision is not supported by substantive evidence in the record, not conclusive and constitutes grounds for reversal. Certiorari is warranted in this case.

Claimant's Disability Report, filed 7/16/90, listed worked performed in past 15 years as Operations Research Analyst,

Logistics Management Specialist, Supply Systems Analyst, Supply Specialist, Supply Intern and Postal Clerk (see page 4A, Claimant Disability Report, App 16a or Page 91, Secretary of Health and Human Services Certification #93-244 to Civil Action 93-A-648-N, filed July 8, 1993). The Administrative Law Judge states that the record reveals that claimant's past relevant work has been as a research analyst, operations analyst, logistics specialist and supply systems analyst (see paragraph 3, sentence 7 of Administrative Law Judge's Decision, App 6a or page 49 of Secretary of Health and Human Services' Certification #93-244, of Civil Action no. 93-A-648-N, filed July 8, 1993. The record shows that claimant has never worked as a research analyst, operations analyst, or logistics specialist. Therefore, the Commissioner of Social Security's findings of fact is not only not conclusive, but are not supported by substantial evidence on the record as a whole. Therefore, improper legal standards of 42 USCS 405(g), sentence 5, were used to deny disability benefits. Clearly, Certiorari and reversal is warranted.

Additionally, the Secretary of Health and Human Services Certification #93-244 of Civil Action No. 93-A-648-N, filed July 8, 1993, is incomplete because it does not include the Veterans Medical Center report dated September 5, 1990 and August 22, 1990 (see App 40a, page 65 of Secretary of Health and Human Services' Certification #93-244 of Civil Action No 93-A-648-N, filed July 8, 1993) upon which claimant's disability benefits were denied. Therefore, use of the improper legal standards of 42 USC 405(g), sentences #3 and #5, were used to deny claimant's disability benefits has not only prejudiced the rights of the claimant 42 USCS 405(b)(1) denied claimant's First Amendment Right to petition for redress and denied claimant's Fifth Amendment due process right, but the decision is invalid, compels the conclusion that the findings of fact and the decision to deny disability benefits are not supported by substantial evidence on the records as a whole,

compels the inescapable conclusion that claimant is disabled and strongly suggests that this case merits not only review by Certiorari, but should be reversed.

The Administrative law Judge's decision states that claimant suffers from urinary incontinence since August 14, 1992, (see paragraph 10, sentence 15, App 6a) and severe impairments of glaucoma, gout, high blood pressure; dermatitis and diabetes, but the record reveals no end item damage, resulting from high blood pressure (see paragraph 12, sentence #1 and 6, App 6a) or hypertension (see App 6a, sentence 7). Each cited impairment is severe and exceeds the statutory duration requirements of 12 months. Therefore claimant is disabled by virtue of 20 CFR 404.1520(a) sentence #5. It has been upheld that claimant who suffered no end organ damage as result of either hypertension or diabetes or both did not require rejection of disability claim (see Martin v. Secretary of Dept of Health, Ed and Welfare, CASC 1974, 492 F2d 905). Additionally it has been upheld that nothing in this section permits rejection of a disability claim simply because this claimant has not experienced significant end organ damage (see Hicks v. Califano, CA Md 1979, 600 F.2d 1048).

The record clearly shows that the Commissioner of Social Security did not meet statutory requirements and legal standards of 42 USCS 423(d)(2)(B); 20 CFR 416.920(a), sentence #5 and 20 CFR 416.1520(a), sentence #4, to consider, properly evaluate and adequately explain the combined effect of all the individual's severe impairments, including urinary incontinence, diabetes mellitus, glaucoma, high blood pressure, gout and dermatitis, prior to denying the disability claim on September 23, 1992 (see Decision of Administrative Law Judge, App 6a). Consequently, this case not only merits certiorari, but this constitutes grounds for reversal.

The record shows that claimant filed an application for disability insurance benefits on 7/16/90 (see App 39a), not a claim for disability Medicare coverage. The Administrative Law

Judge's Decision (see page 1, App 6a) clearly states that "the decision is for a claim for disability Medicare coverage (Governmental employee). Clearly, claimant's First Amendment Right to petition the Government for grievances and fifth amendment right - due process have been denied. Therefore the Administrative Law Judge not only erred and applied an improper legal standard, but the act is unconstitutional, should be reviewed by Certiorari, and promptly reversed.

The record shows claimant's onset dates for the severe impairments of urinary incontinence (August 14, 1992) (see App 6a, paragraph 10, sentence 15); glaucoma, March 31, 1971(see App 25a, line 24) and further diagnosis on May 27, 1971 (see App 27a) (not March 30, 1988); hypertension (1985), (Dermaphytosis of the feet) (2/27/85), gout (9/89) (see Disability Report, App 16 a or pages 88 and 89 of Secretary of Health and Human Services Certification #93-244 for Civil Action 93-A-0648-N, filed July 8, 1993) and diabetes mellitus (August 14, 1992) (see App 6a, Sentence 17, paragraph 10; and sentence 1, paragraph 12). The record shows that claimant has used EPIFRIN or TIMOPTIC eye drops for glaucoma since 5/27/71. (see Disability Report, App 16a pages 2A and 2B, filed 7/16/90 or Secretary of Health and Human Services' Certification's #93-244 for Civil Action NO. 93-A-0648-N, filed July 8, 1993). The record shows that claimant has not been evaluated for his health problems with stress or the combined effect of all claimant's impairments. Claimants worked with the severe impairments from 5/27/71 to 3/30/88, when claimant became unable to engage in any substantial gainful activity by reasons of his severe impairments. It is noted that Department of Veterans Affairs declared claimant to be 20 percent disable from glaucoma with loss of field of vision, effective 12/1/84 (see App 31a); 30 percent disable, effective 11/4/88 and 50 percent, effective 10/6/89 (see App 28). Therefore it is clear that claimant is unable to engage in any substantial gainful activity and that improper legal standards, misapplication of

laws and regulations to the facts of applicant's case, including 42 USCS 423(d)(1)(A), (2)(A) and (5)(B) and 42 USCS 416(i)(1) has resulted in claimant being denied his lawful disability benefits since July 16, 1990.

The record shows that Commissioner of Social Security used the medical report of Mark S. Veres, DPM, a foot specialist, dated September 6, 1989, who never treated claimant's eyes for glaucoma, to deny claimant's application for disability insurance benefits on 1/7/91 (see App 40a). Clearly the use of a foot specialist medical report to deny a glaucoma disability is fraud or similar fault (42 USCS 405(U)(1)(B) and (2)), use of improper legal standards to deny disability claim, denial of claimant's first amendment right to redress government for grievances, fifth amendment right to due process of law, compels immediate redetermination of entitlement for disability benefits, 42 USCS 405(U)(1)(B) and (2)), compels conclusion that the findings of fact and the decision to deny the disability claim is not supported by substantial evidence on the record as a whole, compels the unescapable conclusion that claimant is disable, suggests strongly a review by Certiorari and a prompt reversal.

The record shows that Appellant's Disability Report, App 16a, filed 7/16/90, contains 11 impairments, i.e. glaucoma, with fields of vision loss, 22 degrees left eye and 24 degrees right eye (2.03), gout (arthritis); skin disease (rash); skin disease (head/hair); skin disease (hair); skin disease; stress; hypertension; bilateral scotomas; eye injury, and Dermaphytosis of the feet (8.04) (see pages 2A and 2B, App 16 a or pages 88 and 89, of the Secretary of Health and Human Services; Certification for civil action no. 93-244, filed July 8, 1993), and that urinary incontinence and diabetes mellitus were included in the Administrative Law Judge's decision filed September 23, 1992 (see App 6a, paragraph 12, sentence 1 and paragraph 10, sentence 15) The record shows that the combined effect of the 11 impairments were not considered, properly evaluated or

adequately explained. It is noted that the Administrative Law Judge listed 5 impairments, i.e., glaucoma, gout, high blood pressure, dermatitis and diabetes mellitus (see App 6a, paragraph 12, sentence 1). Clearly the improper substitution of the Administration Law Judge's 5 impairments for Appellant's 11 impairment constitutes not only fraud or a similar fault (42 USCS 405(U)(1)(B) and (2)), use of improper legal standard to deny disability claim, denial of appellant's first amendment right to see redress for grievances with government and fifth amendment right to due process of law, compels immediate redetermination of entitlement for disability insurance benefits 42 (USCS 405(U)(1)(B) and (2)), compels conclusion that the findings of fact and the decision to deny the disability claim is not supported by substantial evidence on the record as a whole, not conclusive, compels the inescapable conclusion that appellant is disable, and suggests strongly a review by Certiorari.

The record shows that the Secretary (now Commissioner of Social Security) failed to use the proper legal standard "to consider, properly evaluate and adequately explain the combined effects" of 11 claimant's impairments (i.e. glaucoma, with vision field loss-22 degrees, left eye and 24 degrees, right eye (2.03); gout (arthritis); skin (rash); skin disease (head/hair); stress; hypertension; bilateral scotomas; eye injury; dermaphytosis of the feet (8.04); urinary incontinence and diabetes mellitus (9.04) prior to denial of disability benefits. Eleventh Circuit's case law has held that "Secretary's failure to consider claimant's impairments in combination was misapplication of Eleventh circuit, and established lack of substantial justification for the Secretary's position, where although rule that impairments be considered in combination was not explicitly mandated by statute until 42 USCS 405(d)(2)(C) was added, it had long been requirement in the Eleventh Circuit. Peterson v. Bowen (1988, ND Ga) 1988 U.S. Dist. LEXIS 15771, Civil Action No. 1:84-CV-1460-JOF".

Clearly, the 11th Circuit has ruled that the Secretary's action constitutes misapplication of the law and established lack of substantial justification for the Secretary's position. The Secretary use of an improper legal standard and misapplication of the law compels not only review by Certiorari, but compels the inescapable conclusion that claimant is disable, and compels immediate reversal of the Secretary's decision.

The Administrative Law Judge (ALJ) breached his duty to develop complete medical history and make every reasonable effort to help obtain medical reports of 11 glaucoma medical providers, which are listed in the Disability Reports, dated 7/16/90, App 16a as entries #3, 6,7, 8, 11, 12, 17, 18, 19 and 16, after claimant granted permission. Case law states that "when ALJ breaches duty to develop complete history and make every reasonable effort to help obtain medical reports when granted permission by claimant, Secretary's position is not substantially justified". Rodgers v. Sullivan (1992, ND Ill) 1992 US Dist. LEXIS 16028. Clearly, the Secretary's position is not conclusive. The Secretary's use of an improper legal standard and misapplication of the law compels not only review by Certiorari, but compels the inescapable conclusion that claimant is disable and compels immediate reversal of the Secretary's decision.

Claimant's present disability is clearly and directly traceable to glaucoma, a condition which had its inception on 3/31/71 (see App 25a) line 24; Medical Report on 5/27/71, see App 27a) when claimant was covered by disability insurance from June 1960 to March 1973 (see App 41a, Claimant's Earning Record, pages 1 and 2 or pages 41 and 42 of Secretary of Health and Human Services' Certification #93-244 for Civil Action No. 93-A-0648-N, dated July 8, 1993). Case law states that "If claimant could demonstrate present disability that was clearly and directly traceable to condition having its inception when she was covered by disability insurance, she could be found qualified for disability benefits. Cassel v. Harris, D.C.

Colo. 1980, 493 F. Supp. 1055. Claimant meets the conditions set forth in Cassel v. Harris. Therefore, claimant should be found qualified for disability benefits.

The record of this case clearly shows that the Commissioner of Social Security breached her duty by failing to determine the statutory medical equivalent of a listed impairment for claimant's 11 impairments.

United Stats District Court failed to grant or deny approximately 17 of claimant's objections raised in opposition to its decision (App 3a). Clearly, claimant was denied his Fifth Amendment due process right, denial of a Constitutional right is not only grounds for Certiorari, but compels the inescapable decision that claimant is disable and constitutes grounds for immediate reversal.

The Administrative Law Judge (ALJ) breached his duty by misstating the true severity of claimant's diabetes mellitus impairment for the sentence "Laboratory testing revealed a blood glucose of 334 mg/dl" (see App 6a, sentence 16), on 9/23/92. The ALJ failed to state that the glucose result was abnormally high (i.e., 224 mg/dl above its normal range); failed to state that urea nitrogen result of 7.0 mg/dl was abnormally low (i.e., 1 mg/dl below the minimum lab range) and failed to state that chloride result (i.e. 100 mm01/l) was abnormally low (1 mm01/l below the minimum ref range) (see App 43a). Clearly, the ALJ breached his duty to fairly state the severity of diabetes mellitus and explain the implications of the low readings for chloride and urea nitrogen. This action of the ALJ compels the conclusion that the findings of fact and decision of this case not supported by substantial evidence on the record as a whole, but that the decision is not conclusive, compels the inescapable conclusion that claimant is disable and that the Secretary's decision be promptly reversed.

INTRODUCTORY PRAYER

Appellant Raymond Jackson prays this Court to grant his petition for certiorari to review an adverse decision by the United States Court of Appeals for the Eleventh Circuit.

CITATIONS TO OPINIONS BELOW

The decisions of the United States Court of Appeals for the Eleventh Circuit are at Appendices 1a and 2a.

The decision of the United States District Court, Middle District of Alabama is at Appendix 3a.

The decision of the Administrative Law Judge is at Appendix 6a. The decision of the Council is at Appendices 4a.

JURISDICTION

The Court has jurisdiction under 28 USC 1254 because appellant seeks review of an adverse decision rendered by the United States Court of Appeals for the Eleventh Circuit.

STATUTORY PROVISIONS INVOLVED

The statutes underlying this case are at appendices 30a, 32a, 35a, and 37a. The Code of Federal regulations underlying this case are at appendices 33a, 34a, and 38a.

REASONS FOR GRANTING THE PETITION

I. THE DECISIONS OF THE COURTS OF APPEALS ARE IN DIRECT CONFLICT AS TO APPLICABLE STANDARDS IN THE RECOGNITION AND ANALYSIS

OF FEDERAL CONSTITUTIONAL RIGHTS OF CLAIMANT'S FOR INSURANCE DISABILITY BENEFITS.

The applicable standards for use in the insurance disability benefits program is set forth in the statutes and regulations previously cited.

The Eleventh Circuit has arbitrarily and capriciously abandoned many of legal standards, as set forth in claimant's Statement of the Case. For example, the record shows that the Secretary failed to consider, properly evaluate and adequately explain "claimant's impairment in combination". Case law states that "Secretary's failure to consider claimant's impairments in combination was misapplication of Eleventh Circuit law, and established lack of substantial justification for Secretary's position, where although rule that impairments be considered in combination was not explicitly mandated by statute until 42 USCS 405(d)(2)(C) was added, it had long been requirement in Eleventh Circuit". Peterson v. Bowen (1988, ND Ga) 1988 US Dist, LEXIS 15771, Civil Action No. 1:84-CV-1460-JOF. Clearly, the 11th Circuit has ruled that the Secretary's actions constitutes misapplication of the law and established lack of substantial justification for the Secretary's position. Therefore, the Eleventh Circuit's position not only compels review by Certiorari, but compels the inescapable conclusion that claimant is disable and that the use of the improper legal standard compels immediate reversal of the Secretary's decision.

A. A DIRECT CONFLICT EXISTS BETWEEN THE ELEVENTH CIRCUIT'S RECOGNITION OF A FEDERAL CONSTITUTIONAL RIGHT IN THIS CASE AND DECISIONS OF OTHER CIRCUITS REFUSING TO RECOGNIZE OR LIMITING SUCH A RIGHT.

<u>The Conflicts</u>

1. In this case the Eleventh Circuit uses the standard "that claimant has not experienced significant or no end organ damage" to reject claimant's disability claim (see App 6a_, paragraph 12, sentence # 6 and paragraph 13 and sentences #7

and 13). On the contrary, it was held in other circuits that "mere fact that claimant for total disability had suffered no end organ damage as a result of either hypertension or diabetes or both did not require rejection of disability claim" (Martin v. Secretary of Dept. of Health, Ed, and Welfare (C.A.S.C. 1974, 492 F.2d 905.)". Additionally, it was held that "nothing in this section permits rejection of a disability claim simply because the claimant has not experienced significant end organ damages. Hicks v. Califano, C.A. Md. 1979, 600 F. 2d 1048.

2. In this case the Eleventh Circuit failed to use the standard "to consider, properly evaluate and adequately explain the combined effects" of claimant's 11 impairments (see App 16a, pages 28 and 28a, App 6a paragraph 12, sentence #1 and App 10, sentence # 15) in the records before denial of payment of disability benefits or denial of benefits. On the contrary it was held in other circuits - i.e. Third Circuit "where there are several illnesses suffered simultaneously by a social security disability claimant,, combined effects of the impairment must be considered before the Secretary can deny the payment of benefits. Rodriguez v. Schweiker, D.C. 1981, 523 F. Supp. 1240; Eighth Circuit "Illnesses of claimant for disability insurance benefits must be considered in combination and must not be fragmentize in evaluating their effects; fact that each illness standing alone may not be disabling is not conclusive on question of whether individual is disable. Dressel v. Califano, C.A. Mo. 1977, 558 F.2d 504 and Fourth Circuit "Administrative Law Judge erred in failing to consider possible cumulative effect of maladies, including menopausal syndrome, acute and chronic arthritis, and acute and chronic anxiety, which were medically related in terms of their effect on claimant. Little v. Califano, D.C. N.C. 1978, 462 F. Supp. 575 and lastly, "Failure to establish disability under the listing by reference to a single, separate impairment does not prevent disability award, the combined effects of claimant's impairments must be considered and the administrative law judge must adequately his

or her evaluation of the combined effects of the impairments. Walker v. Bowen, C.A. 4 (Va.) 1989, 889 F.2d 47.

B. EVEN IF A CONSTITUTIONAL RIGHT HAS BEEN RECOGNIZED, THE CIRCUITS ARE ON DEEP CONFLICT ABOUT THE WAY TO TREAT THE RIGHT IN THE FACE OF COMPETING GOVERNMENTAL INTERESTS.

The Conflicts

1) In this case, the Eleventh Circuit substituted its 5 severe impairments (i.e. glaucoma, gout, high blood pressure, dermatitis and diabetes mellitus) for claimant's 11 impairments (i.e., glaucoma, with vision field loss-22 degrees, left eye and 24 degrees, right eye) (2.03); gout (arthritis); skin disease (rash); skin disease (head/hair); stress; hypertension; bilateral scotomas; eye injury; dermaphytosis of the feet (8.04); urinary incontinence and diabetes mellitus (9.04) and then decided that claimant was not disable, without evaluating stress, hypertension, dermaphytosis of the feet or urinary incontinence or the combined effects of the 11 impairments. The record clearly shows that claimant has met the "Listed impairment standard" or its medical equivalence, which the record shows that Commissioner of Social Security failed to determine. On the contrary, the other circuits held: Third Circuit "Upon introduction of medical evidence that Social Security disability claimant suffers from one or more serious "listed" impairments, he is considered disabled per se. "Spada v. Bowen, E.d. Pa. 1988, 687 F. Supp. 1988", Fifth Circuit - "If disability claimant's impairment is determined to be nonsevere, claimant is considered not disabled; but if claimant's impairment is severe, meets the durational requirements of statue and is listed in Appendix I or is determined to be medical equivalent of a listed impairment, a finding of disabled is mandatory without additional inquiry. Jason v. Heckler, C.a. 5 (la.) 1985, 767 F. 2d 82; Fourth Circuit - "Under this section, if claimant has impairment or impairments which meet or equal those listed in

regulations, findings of disability shall be made without consideration of vocational factors. Griggs v. Schweiker, D.d. W.Va. 1982, 545 F. Supp. 475 and other circuit - "If disability benefits claimant's impairment meets durational requirement of this section and is listed in Section 404.1503 of 20 C.F.R. of appendix to this title or is medical equivalent of listed impairment, claimant is entitled to per se finding of disability". Holliday v. Schweiker, D.C. Ill. 1983, 563 F. Supp. 1272.

The Competing Governmental Interests

1. By virtue of 42 USCS 423(d) and 42 USCS 416(i), United States Government manages and operates the Insurance Disability Benefits program. Clearly, a common objective of many governmental programs, is to minimize total cost of the program. The common objective frequently clashes with claimant's rights to disability benefits.

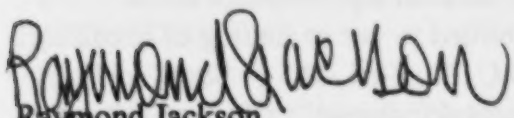
2. Disability benefits claimants have both constitutional and statutory rights to disability benefits. It is well-established by other circuits that "the law favors liberal construction of this subchapter (42 USCS 423) in favor of disability benefits claimant". Bagwell v. Celebrezze, D.C.S.C. 1964, 232 F. Supp. 989. See also, Davidson v. Gardner, C.A. Ky. 1966, 370 F. 2d 803; Sharbino v. Richardson, D.C. La. 1971, 334 F. Supp. 107; Branch v. Finch, D.C. Kan, 1970, 313 F. Supp. 337; White v. Finch, D.C. Mass. 1970, 311 F. Supp. 307; Stefero v. Gardner, D.C. Pa. 1968, 285 F. Supp. 898; Blakenship v. Celebrezze, D.C. W. Va 1964, 232 F. Supp. 229; Graham v. Celebrezze, D.C. W.Va. 1964, 230 F. Supp. 936; Brown v. Celebrezze, D.C. S.C. 1962, 210 F. supp. 692.

3. Claimant contends that as long as the Insurance Disability Benefits Program is mandated by virtue of 42 USCS 423 and 42 USCS 416, the competing governmental interests should be given less weight than the claimant's constitutional rights for insurance
disability benefits.

CONCLUSION

The petition for a writ of Certiorari should be granted.

Respectfully submitted,



Raymond Jackson
Counsel of Record
225 Conrad Street
Montgomery, Alabama 36110
(334) 265-8801

IN the UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 94-6765

Raymond Jackson, Plaintiff-Appellant,
versus
Shirley S. Chater,
Commissioner of Social Security,
Defendant-Appellee

On Appeal from the United States District Court for the Middle District of Alabama

Before: Edmondson and Cox, Circuit Judges and Johnson, Senior Circuit Judge

Per Curiam:

The petition(s) for rehearing filed by the appellant is denied.

Entered for the Court:

/s/ J. L. Edmondson
United States Circuit Judge

Filed U.S. Court of Appeals
Eleventh Circuit
June 04, 1996
Miguel J. Cortez, Clerk

In the United States Court of Appeals
For the Eleventh Circuit

No. 94-6765
Non-Argument Calendar

DC Docket No. CV-93-A-648-N

Raymond Jackson,
Plaintiff-Appellant,
versus
Shirley S. Chater, Commissioner
of Social Security,
Defendant-Appellee.

Appeal from the United States District Court
for the Middle District of Alabama

(July 31, 1995)

Before EDMONDSON and COX, Circuit Judges, and JOHNSON, Senior Circuit Judge.

PER CURIAM:

Raymond Jackson appeals from the district court's judgment affirming the decision of the Secretary of Health and Human Services to deny his application for disability insurance benefits and Medicare benefits. After reviewing the record, we conclude that the numerous contentions raised by Jackson on this appeal are without merit.

AFFIRMED.

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

RAYMOND JACKSON,
Plaintiff

v. CIVIL ACTION NO. 93-A-648-N

DONNA E. SHALALA, Secretary
of Health and Human Services
Defendant.

ORDER

This cause is now before the court upon the Recommendation of the Magistrate Judge filed on January 26, 1994 and Plaintiff's Objections to that Recommendation filed on February 8, 1998.[1] The Magistrate Judge recommends that the final decision of Defendant denying the Plaintiff Social Security Disability benefits and Supplemental Security Income under Title II and XVI of the Social Security Act be affirmed. Upon an independent evaluation of this matter, and after considering the Recommendation and Objections, this court finds Plaintiff's Objections to be without merit.

Accordingly, the Recommendation of the Magistrate Judge is ADOPTED, and the final decision of the Defendant is AFFIRMED.

Done this 5th day of July, 1994.

EOD 7/5/94

/s/ W. Harold Albritton
United States District Judge

[1]The court has also reviewed Defendant's response to the Magistrate's Recommendation filed on February 25, 1994 and Plaintiff's objections to the response filed on March 14, 1994.

FILED July 5, 1994
Clerk
U.S. District Court
Middle District of Alabama
Deputy Clerk, by JC

Exhibit 1

Department of Heath & Human Services
Social Security Administration
Refer to: S3GCP
423-42-1287

Office of Hearings and Appeals
PO Box 3200
Arlington, VA 22203

March 26, 1993

ACTION OF APPEALS COUNCIL ON REQUEST FOR REVIEW

Mr. Raymond Jackson
2980 Juniper Street
Fairfield, CA 94533

Dear Mr. Jackson:

The request for review of the Administrative Law Judge's decision in your case has been considered.

Social Security Administration regulations provide that the Appeals Council will grant a request for review where: (1) there appears to be an abuse of discretion by the Administrative Law Judge; (2) there is an error of law; (3) the Administrative Law Judge's action, findings, or conclusions are not supported by substantial evidence; or (4) there is a broad policy or procedural issue which may affect the general public interest. The regulations also provide that where new and material evidence is submitted with the request for review, the entire record will be evaluated and review will be granted where the Appeals Council finds that the Administrative Law Judge's actions, findings, or conclusion is contrary to the weight of the evidence currently of record. (These provisions are contained in 20 CFR 404.970 for Social Security claims under Title II of the Social

Security Act and in 20 CFR 416.1470 for Supplemental Security Income claims under Title XVI of the Act.)

The Appeals Council has concluded that there is no basis under the above regulations for granting your request for review. In reaching this conclusion, the Appeals Council has considered the applicable statutes, regulations, and rulings in effect as of the date of this action. Accordingly, your request is denied and the Administrative Law Judge's decision stands as the final decision of the Secretary in your case.

The Appeals Council also considered the additional evidence, and the statements you made in the correspondence submitted in connection with the request for review, but decided they provided no basis to change the hearing decision.

As was indicated on the application form itself, the claim you filed on July 16, 1990 was an application for a period of disability and/or all insurance benefits under both Title II and Part A of Title XVIII of the Social Security Act for which you may be eligible. While you earned the necessary work coverage for purposes of establishing entitlement to Medicare prior to age 65 based on a disability (section 226(b)(2)(C) of the Social Security Act), you do not have enough covered employment to meet the disability earnings requirements to qualify for cash benefits based on disability (section 216(i) of the Act).

You have consistently maintained that the medical records from the Veterans Administration and other government agencies establish that you are disabled and have been for years as the result of glaucoma and/or several other impairments. However, the statements you made regarding your problems, symptoms and resultant limitations are not sufficient alone to establish disability (20 CFR 404.1529). In addition, because you were treated for certain conditions does not necessarily signify they were disabling. Moreover and contrary to your assertion, it is

your responsibility to furnish evidence to establish that you are disabled (20 CFR 404.1512).

If you desire a court review of the Administrative Law Judge's decision, you may commence a civil action by filing a complaint in the United States District Court for the judicial district in which you reside within sixty (60) days from the date of the receipt of this letter. It will be presumed that this letter is received within five (5) days after the date shown above unless a reasonable showing to the contrary is made. The complaint should name the Secretary of Health and Human Services as the defendant and should include the Social Security number(s) shown at the top of this notice. The right to court review is provided for in section 205(g) of the Social Security Act, as amended (42 USC 405(g)) for claims under Title II and in section 1631(c)(3) of the Act (42 USC 1383(c)(3)) for claims under Title XVI.

If a civil action is commenced, the Secretary must be served by sending a copy of the summons and complaint by registered or certified mail to the General Counsel of the Department of Health and Human Services at 200 Independence Avenue, SW, Washington, DC 20201. (See rules 4(c)(2) and (d)(4) and (5) of the Federal Rules of Civil Procedure and Part 45, Section 4.1 of the Code of Federal Regulations.) In addition, you must serve the United States Attorney for the district in which you file your complaint and the Attorney General of the United States, as provided in the Federal Rules of Civil Procedure.

Sincerely yours,

/s/ Catherine Ravinski
Administrative Appeals Judge

cc:
Christopher M. Cooper, Esq.HO, San Rafael, CA (ALJ Booker)

DEPARTMENT OF
HEALTH AND HUMAN SERVICES
Social Security Administration
OFFICE OF HEARINGS AND APPEALS

DECISION

IN THE CASE OF

CLAIM FOR
Disability Medicare Coverage
(Government Employee)

Raymond Jackson
Claimant

423-42-1287
Social Security Number

This case is before me on a re quest for hearing. The issue before the Administrative law Judge is whether the claimant meets the statutory definition of disability for purposes of eligibility for Medicare coverage. It is my decision that the claimant is not disabled for the reasons indicated below.

HISTORY OF THE PROCEEDINGS

The claimant filed an application on July 16, 1990 for a determination of disability, in order to establish entitlement to Medicare coverage based upon his governmental employment

and contributions into the Medicare trust funds. His application was denied initially on January 7, 1981 and upon reconsideration. The claimant filed a request for hearing. While the claimant did not wish to appear at a hearing, he did wish to have a hearing held on his behalf with an appearance by his attorney, Christopher Cooper. Pursuant to his request, a hearing was held before the undersigned on August 20, 1992, in Columbus, Ohio. Christopher Cooper, attorney-at-law, appeared on behalf of the claimant and answered questions from the administrative law judge and presented his arguments on behalf of the claimant. The claimant did not appear at the hearing.

EVALUATION OF THE EVIDENCE AND FINDINGS

The claimant alleges disability since March 30, 1988. He satisfies the earnings requirements for Medicare coverage of a government employee based upon disability on that date and continuing through December 31, 1993. However, since his alleged onset date of disability, the claimant has not met the requirements for entitlement to disability insurance benefits. The claimant was born on January 29, 1934 and currently is 58 years of age. He completed a high school education, has a college degree and two post-graduate degrees. According to a disability report submitted in conjunction with his application on July 16, 1990, the claimant alleged disability commencing March 30, 1988 as a result of glaucoma (Exhibit 13, p. 1). More recently, the claimant has alleged disability as a result of multiple medical conditions including glaucoma, gout (arthritis), hypertension, skin disease, Dermaphytosis of the feet, bilateral scotomas and the inability to control release of his urine (Exhibit 18, p.2). The record reveals that the claimant's past relevant work has been as a research analyst, operations analyst, logistics specialist and supply systems analyst. All of the claimant's past relevant work has been for the United States Government.

Section 226 of the Social Security Act, as amended, provides for entitlement to Hospital Insurance Benefits (Medicare) for individuals with Medicare qualified government employment. Such government employment is treated as Social Security qualifying "employment" for the purpose of qualifying for disability Medicare coverage. To obtain Medicare benefits such employees must file an application for benefits and must meet the insured status and other disability eligibility requirements of the Social Security disability cash benefits program, even though no such cash benefits are payable. Disability must exist for 29 consecutive months, at least 12 months of which must occur after the filing of the application. The 29 month period consists of five "waiting months" followed by 24 additional months of disability. Medicare coverage can begin in the 30th month of disability.

In determining disability, a five-step sequential evaluation is utilized (20 CFR § 404.1520) and 416.920). An individual who is engaging in substantial gainful activity cannot be found disabled. if the individual does not have a "severe" impairment or combination of impairments, a finding of disability cannot be made. A "severe" impairment or combination of impairments which meets or equals the level of severity set forth in the Listing of Impairments will result in a finding of disability. If none of the above three steps result in a finding of disabled or not disabled, a determination is required as to whether the individual can return to and perform his past relevant work. Once an individual has established that he cannot resume his past relevant work, the burden is then on the Secretary to show that there are other jobs existing in significant numbers in the national economy which he can perform consistent with his functional limitations and age, education and work experience.

The evidence reveals that the claimant has not engaged in substantial gainful activity since his alleged onset date of disability of March 30, 1988.

The medical evidence reveals that the claimant was seen as an outpatient at the Veteran's Administration facility on April 2, 1986 at which time it was noted that the claimant had adequate intraocular pressure control. He was seen October 24, 1986 for a skin condition involving the scalp with improvement (Exhibit 14).

On September 6, 1989, the claimant was initially seen by mark Veres, DPM, with complaints of pain in the big toe joint. This was diagnosed as probable acute gouty arthritis. Indocin was prescribed and on September 12, 1989 the claimant reported marked symptomatic improvement. Examination revealed no further abnormality (Exhibit 15).

The claimant was seen on march 21, 1990 by Harold Hatcher, MD, an ophthalmologist, for follow-up with his glaucoma. The best corrected visual acuity was 20/25 in the right eye and 20/40 in the left eye. Visual fields remained stable. The claimant was expected to continue taking Timoptic eyedrops (Exhibit 16).

The remainder of the evidence consists of Veteran's Administration outpatient treatment notes dating from September 27, 1988 through August 14, 1992. When seen September 27, 1988 it was noted that the claimant had glaucoma bilaterally which was stable. No visual changes were noted at that time. Timoptic eyedrops were continued. The claimant was seen on July 13, 1989 in the dermatology clinic for his scalp and skin rash. He was diagnosed as having Folliculitis and seborrheic dermatitis. Medications including Tetracycline were prescribed. On September 5, 1989, the claimant complained of pain in the right great toe with the provisional diagnosis of gout. This condition was noted to have improved with medication by September 14, 989. The note dated December 13, 1989 revealed that the claimant was no longer experiencing acute gouty attacks. He was given a refill of

medications. On August 18, 1990, the claimant sought a refill of his Timoptic eyedrops. His blood pressure at that time was 148/100. It was noted that he was experiencing no current problems (Exhibit 17). The claimant was seen on August 14, 1992 with urgency, excessive urination and the inability to control his water, increased thirst and loss of weight. Laboratory testing revealed a blood glucose of 334mg/dL. The claimant was diagnosed as having probable diabetes mellitus and he was to be seen in follow-up several days later for further testing. The records from August 14, 1992 further revealed that the claimant continued to be treated for glaucoma and skin condition (Exhibit 22).

As indicated above, Christopher Cooper, the claimant's attorney, appeared at the hearing on August 20, 199Z on behalf of the claimant. He reiterated the claimant's wish not to appear at a hearing. On behalf of the claimant, he argued that the claimant has diabetes mellitus and glaucoma of almost legal blindness level. He stated that the claimant has high blood sugar and was on medication for this. The claimant developed an inability to control his urine. He continues to have gout. The claimant's attorney was unaware of whether the claimant used any type of protection against urinary incontinence. He also was unaware when this problem began for the claimant. It was noted that the administration had scheduled consultative examinations for evaluation of the claimant's eye condition on two occasions but that the claimant did not appear for either scheduled examination. The claimant's attorney stated that the claimant would not submit to a consultative examination.

The medical record documents that the claimant has stable glaucoma, gout, high blood pressure, dermatitis and diabetes mellitus. These impairments are considered "severe" within the specialized meaning of the Social Security Act because they significantly interfere with the claimant's ability to engage in basic work activities. Although severe, the claimant's

impairments do not meet or equal the level of severity described in the Listing of Impairments in Appendix 1 to Subpart P of Regulations No. 4. For example, with respect to the claimant's gout, the record fails to reveal a history of persistent joint pain, swelling and tenderness involving multiple major joint with signs of joint inflammation on current physical examination despite prescribed therapy for at least three months resulting in significant restriction of function on the affected joints and clinical activity expected to last at least 12 months as required for inflammatory arthritis in section 1.02 of the Listing of Impairments in Appendix 1. With respect to the claimant's glaucoma, the evidence fails to reveal findings as described in section 2.02 of the Listings regarding impairment of central visual acuity, section 2.03 regarding contraction of peripheral visual fields in the better eye, or section 2.04 regarding loss of visual efficiency. While there is evidence of high blood pressure, the record fails to reveal end organ damage or other severe complications as described in section 4.03 for hypertensive vascular disease. Although the claimant has a history of dermatitis, the record does not identify a condition with appropriate medical findings as described in section 8.01 regarding impairments of the skin. There is recent evidence to indicate the existence of diabetes mellitus. However, the record fails to describe any of the severe associated complications in section 9.08 of the Listings regarding diabetes mellitus.

The record fails to demonstrate that the claimant's combination of impairments has interfered with his ability to engage in "medium" work pursuant to 20 CFR 404.1567, which would not involve heavy lifting or carrying. While the record documents a history of glaucoma requiring treatment with eyedrops, there is no evidence of serious impairment of central visual acuity or visual fields". Since the claimant's alleged onset date of disability, the only evidence regarding the diagnostic testing of the claimant's vision is that from Dr. Hatch regarding his examination of the claimant on March 21, 1990. The results

failed to identify the existence of an impairment that has failed to identify the existence of an impairment that has resulted in functional limitations including the ability to engage in work activity. Further medical evaluation of this condition has been attempted, but the claimant refuses to undergo ophthalmologic evaluation conducted at the expense of the government. The record reveals that the claimant has a history of gout primarily affecting the right big toe, but acute difficulty in this regard has resolved with appropriate medical treatment. The claimant has alleged hypertension and there is evidence of high blood pressure which is described in the note of August 18, 1990 where the blood pressure of 148/100 was noted. However, it does not appear that the claimant has experienced persistent high blood pressure and there is no evidence of any complications or end organ damage associated with hypertension. A history of folliculitis and seborrheic dermatitis is in the medical record, but the record reveals that this condition has responded satisfactorily to medications. The claimant has recently been evaluated for symptomatology including urinary frequency, excessive thirst, weight loss, and inability to control urination. Diagnostic testing revealed elevated glucose levels and probable diabetes, was diagnosed. The claimant's attorney indicated that the claimant is being treated with medication for diabetes, but there is no significant persistent problem .There is no indication in the medical record regarding what, if any, medications are necessary. There is no evidence of complications of end organ damage associated with diabetes. As a result, the record fails to identify an impairment or combination of impairments which would interfere with the claimant's ability to perform at least medium work.

In letters submitted by the claimant, he has alleged multiple medical conditions resulting in marked functional limitations including blindness. In evaluating the claimant's complaints, full consideration has been given to all of the medical and other evidence that reflects on the impairments and result limitations

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of function. See Social Security Ruling 88-13 and 20 CFR 404.1529. While subjective complaints including pain may be disabling, it must be established that there is a medically ascertainable source for the claimant's subjective complaints. An impairment must result from "anatomical, physical or psychological abnormality which can be shown by medically acceptable clinical and laboratory diagnostic techniques." Section 223(d)(3) of the Act. Where pain is alleged, it is necessary to examine whether there is objective medical evidence of an underlying medical condition. If there is, an examination is made as to whether: (1) objective evidence confirms the severity of the alleged pain arising from the conditions; or (2) the objectively established medical condition is of such severity that it can reasonably be expected to produce the alleged disabling pain. Duncan v. Secretary, 801F2nd 847, 852-53 (6th Cir. 1986).

The claimant's complaints of discomfort, blindness and associated functional limitations since March 30, 1988 are unsupported to the extent alleged. As indicated above, the documentary medical evidence of record fails to demonstrate impairments indicative of the incapacitating subjective complaints alleged by the claimant. The claimant declined the opportunity to appear and testify at a hearing although he insisted upon a hearing with only his attorney present on his behalf. Because of the limited medical evidence provided, attempts have been made to develop further the medical record. However, the claimant has refused to attend any consultative medical examinations. As the claimant declined to appear at the hearing, the undersigned did not have the opportunity to further investigate the claimant's current living situation including his activities of daily living, his current complaints and his ongoing treatment and medical care. There is no indication in the record that the claimant takes medication which results in any adverse reactions. Under the Duncan criteria the objective evidence does not confirm the severity of the claimant's alleged pain and

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other functional restrictions arising from the claimant's documented conditions. His objectively established medical conditions are not of such severity as to reasonably be expected to produce disabling discomfort or other disabling functional limitations.

The remaining issue is whether the claimant's impairments prevent him from performing his past work or other kinds of substantial gainful activity. The claimant bears the burden of showing inability to perform his prior work, but once this burden is met, it shifts to the Secretary to show that there are other jobs that the claimant can perform which exist in significant numbers in the economy.

The record fails to identify an impairment or combination of impairments which would interfere with the claimant's ability to engage in medium work which would not involve lifting or carrying in excess of 50 pounds at a time occasionally or 25 pounds frequently. According to the claimant's description of his past relevant work in the disability report of July 16, 1990, his prior work did not involve lifting or carrying in excess of 50 pounds occasionally or 25 pounds frequently (Exhibit 13 pp. 5-6). Accordingly, the claimant was not precluded from performing any of his past work for any prolonged period which lasted or could be expected to last for at least 12 continuous months commencing on or before the date of this decision. The claimant, then, must be found "not disabled" within the meaning of the Social Security Act, as amended, pursuant to 20 CFR 404.1520(e).

The findings of the Administrative Law Judge are that, since March 30, 1988, the claimant: (1) has met the earnings requirements for purposes of eligibility for Medicare coverage based upon disability; (2) has not engaged in substantial gainful work activity; (3) has suffered from a combination of severe impairments; (4) has impairments that have not met or equalled

in severity the level of the Listing of Impairments in Appendix 1 to Subpart P of Regulations No. 4; (5) has not been precluded from performing "medium work" for any prolonged period which lasted or could be expected to last for at least 12 continuous months; and (6) has not been precluded from performing his past relevant work as an operations research analyst, logistics specialist, supply systems analyst or supply specialist. I therefore find that the claimant was "not disabled" within the meaning of the Social Security Act, as amended, at any time commencing on or before the date of this decision, for purposes of qualifying for hospital insurance benefits (Medicare).

DECISION

It is the decision of the Administrative Law Judge that, based upon the application filed on July 16, 1990, the claimant is not eligible for hospital insurance benefits (Medicare) under section 226 of the Social Security Act, as amended, as a disabled government employee, as he has not met the disability requirements for entitlement to such benefits at any time commencing on or before the date of this decision.

/s/ James D. Booker
Administrative Law Judge

Date, September 23, 1992

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

RAYMOND JACKSON,
Plaintiff,

v

DONNA SHALALA,
Secretary of Health
and Human Services,
Defendant

CIVIL ACTION NO. 93-A-648-N
COMPLAINT

PARTIES

1. Plaintiff, Raymond Jackson, Social Security Number 423-42-1287, is an adult citizen of the United States and resides in Montgomery, Alabama.

2. Defendant, Donna Shalala, is the Secretary of health and Human Services, and as such is responsible for the operation of that department, including the Social Security Administration.

JURISDICTION

3. This is a complaint seeking review of a final decision of defendant denying plaintiff's application for disability benefits under the Social Security program and for Medicare.

4. This Court has jurisdiction by virtue of 42 USC § 405(g).

FACTS

5. Plaintiff's benefits were denied solely on the founds that he did not suffer from a "disability" as defined by 42 USC § 423.

6. Plaintiff is and has since the date of his application been unable to engage in any substantial gainful

activity by reason of medically determinable physical and mental impairments.

7. Defendant failed to develop the medical record fully in various ways, including by failing to obtain medical records from all the medical providers whose names and addresses plaintiff supplied to defendant. Defendant particularly failed to develop evidence regarding plaintiff's medical problems with stress.

8. Plaintiff filed his application for benefits alleging onset of disability beginning 30 March 1988. The initial application was denied and a reconsideration application was denied. Upon request for such an Administrative Law Judge held a hearing. The Administrative Law Judge entered a decision of denial dated 9-23-92. The Appeals Council denied plaintiff's request dated 10-20-92 for review of the denial decision of the Administrative Law Judge by its order dated 26 March 1993, which the plaintiff received 31 March 1993.

9. Defendant's decision denying plaintiff disability benefits is not supported by substantial evidence in the record and results from an incorrect application of law and regulation to the facts of plaintiff's case.

WHEREFORE, plaintiff prays that this Court grant the following relief:

a. Reverse the decision of defendant denying plaintiff Social Security benefits;

b. Order defendant to provide plaintiff with Medicare coverage; and

c. Grant such other further and different relief as the Court may deem just and proper.

Raymond Jackson, Plaintiff /s/
225 Conrad Street
Montgomery, Alabama 36110
(205) 265-8801

Filed: 5/21/93

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

RAYMOND JACKSON,
Plaintiff,

v CIVIL ACTION NO. 93-1-648-N

LOUIS W. SULLIVAN, Security
of Health and Human Services,
Defendant

ANSWER

Comes now the defendant, by and through James Eldon Wilson, United States Attorney for the Middle District of Alabama, and for answer to the complaint heretofore filed in this cause, shows the following:

1. Defendant admits the allegations contained in paragraphs one, two, three, four and five.

2. Defendant denies the allegations contained in paragraphs six and seven.

3. Defendant admits the allegations contained in paragraph eight.

4. Defendant denies the allegations contained in paragraph nine.

5. The findings of fact of the Secretary of Health and Human Services are supported by substantial evidence and are conclusive.

6. In accordance with section 205(g) of the Social Security Act, 42 USC 405(g), Defendant files as part of the answer a certified copy of the transcript of the record including the evidence upon which the findings and decisions complained of are based.

WHEREFORE, Defendant prays for judgment dismissing the complaint with costs and disbursements and for judgment in accordance with section 205(g) of the Social Security Act, 42 USC 405(g) affirming the Secretary's decision.

JAMES ELDON WILSON
United States Attorney

By: DAVID L. ALLRED /s/
Assistant United States Attorney

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Answer on plaintiff, Raymond Jackson, by mailing him a copy of same, first class, postage prepaid, addressed to 225 Conrad Street, Montgomery, AL 36110.

Dated this 8th day of September, 1993.

David L. Allred /s/
Assistant United States Attorney

P. O. Box 197
Montgomery, AL 36101
(205) 223-7280

Department of Health and Human Services
Social Security Administration
Form Approved
OMB No. 0960-0141

DISABILITY REPORT

PLEASE PRINT, TYPE OR WRITE CLEARLY AND ANSWER ALL ITEMS TO THE BEST OF YOUR ABILITY. If you are filing on behalf of someone else, enter his or her name and social security number in the space provided and answer all questions. COMPLETE ANSWERS WILL AID IN PROCESSING THIS CLAIM.

Privacy Act/Paperwork Reduction Act Notice: The Social Security Administration is authorized to collect the information on this form under sections 205(a), 223(d) and 1633(a) of the Social Security Act. The information on this form is needed by Social Security to make a decision on your claim. While giving us the information on this form is voluntary, failure to provide all or part of the requested information could prevent an accurate or timely decision on your claim and could result in the loss of benefits. Although the information you furnish on this form is almost never used for any propose other than making a determination on your disability claim, such information may be disclosed by the Social Security Administration as follows: (1) To enable a third party or agency to assist Social Security in establishing rights to Social Security benefits and/or coverage; (2) to comply with Federal laws requiring the release of information from Social Security records (e.g., to the General Accounting Office and the Veterans Administration); and (3) to facilitate statistical research and audit activities necessary to assure the integrity and improvement of the Social Security programs (e.g., to the Bureau of the Census and private concerns under contract to Social Security). Those and other reasons why information about you may be used or given out

are explained in the Federal Register. If you would like more information about this, any Social Security office can assist you.

A. Name of Claimant - Raymond Jackson
B. Social Security Number - 423/42/1287
C. Telephone Number - 205-265-8801
D. What is your disabling condition? - Glaucoma

Part I - Information About Your Condition

1. When did your condition first bother you - 03/31/71
2a Did you work after the date shown in item 1? - yes
2b If you did work since the date in item 1, did your condition cause you to change
Your job or job duties - no
Your hours of work? - no
Your attendance? - no
Anything else about your work? - no
3A When did your condition finally make you stop working? - 03/30/88.
3B Explain how your condition now keeps you from working.
I'm not able to see well enough to perform a job.

Exhibit No. 13
Page 1 of 8

Names, Addressees, Phone Numbers of Doctors, Approximate Dates of Treatment (Also Includes Hospitals, Clinics, and Institutions that Treated You and Hospital or Clinic Telephone Number if Known)

1.	Name:	Dr. Harold A. Hatcher 20/20 Ophthalmic Associates
	Address:	2020 Normandie Drive Montgomery, AL 36111
	Phone Number:	(205) 281-4820
	Date of Treatment:	3/89, 7/89, 1988, 11/89, 3/90
	What Was Wrong?	*GLAUCOMA/Bilateral Field of Vision Loss Rt Eye 22/Left Eye: 22
	Treatment Provided:	Testing and Timolol 0.5% Op Sol (Timoptic)
2.	Name:	Dr. Chadala Ramesh VA Medical Center (119)
	Address:	215 Perry Hill Road Montgomery, AL 36193
	Phone:	(205) 272-4670
	Date of Treatment:	12/89
	What Was Wrong:	Gout (Arthritis)
	Treatment Provided:	Colchicine 0.6 Mg Ct
3.	Name:	Dr. Thomas Turner VA Medical Center (119)
	Address:	215 Perry Hill Road Montgomery, AL 36193
	Phone:	(205) 272-4670
	Date of Treatment:	10/89, 9/89, 9/89, 9/89, 9/89
	What Was Wrong:	Gout (Arthritis), Gout (Arthritis), Gout (Arthritis), Rash (Skin

Disease), *(Glaucoma/Field of Vision Loss)

Treatment Provided: Aspirin 325 Mg Enteric Coated, Allopurinol 300 Mg (2-1/2loprim) Colchicine 0.6 Mg Ct, Hydrocortisone 1% (Cream 30 Gm) Timolol 0.5% Sol

4. Name: Dr. Mark S. Veres
Address: 4152 B Carmichael Road, Montgomery, AL 36106
Phone: (205 272-0080
Date of Treatment: 9/89
What Was Wrong: Gout (Arthritis)
Treatment Provided: Indocin 50 Mg

5. Name: Dr. Irvin London
VA Medical Center (119)
Address: 215 Perry Hill Road, Montgomery, AL 36193
Phone: (205) 272-4670
Date of Treatment: 9/89, 9/89, 9/89
What Was Wrong: Skin Disease (Head/Hair), Skin Disease, Skin Disease (Hair)
Treatment Provided: Desoxtmetasone 0.05% (P[prt), Tetracycline 250 Mg (Caps), Sebutone Shampoo (GE) 4 oz

6. Name: Dr. Harry R. Det
VA Medical Center (119)
Address: 215 Perry Hill Road, Montgomery, AL 36193
Phone: (205) 272-4670
Date of Treatment: 1988
What Was Wrong: *Glaucoma/Field of Vision Loss
Treatment Provided: Timolol 0.5% Op Sol (Timoptic)

7.	Name:	Dr. Martinez VA Medical Center Jefferson Barracks
	Address:	Grand Avenue St Louis, MO 63120
	Phone:	(314) 894-4623
	Date of Treatment:	1988
	What Was Wrong:	*Glaucoma/Field of Vision Loss
	Treatment Provided:	Timolol 0.5% Op Sol (Timoptic)
8.	Name:	Dr. Herrero, Wilfrido VA Medical Center
	Address:	Jefferson Barracks, Grand Avenue St Louis, MO 63120
	Phone:	(314) 894-4623
	Date of Treatment:	1987, 1986, 1986
	What Was Wrong:	*Glaucoma/Field of Vision Loss, *Glaucoma/Field of Vision Loss, Skin Disease
	Treatment Provided:	Timolol 0.5% Op Sol (Timoptic), Timolol 0.5% Op Sol (Timoptic), Selenium Sulfide 2.5% Shampoo 9 oz
9.	Name:	Dr. Mark Konwiser VA Medical Center
	Address:	Jefferson Barracks, Grand Avenue St Louis, MO 63120
	Phone:	(314) 894-4623
	Date of Treatment:	1986
	What Was Wrong:	Skin Disease
	Treatment Provided:	Banoxyl 5 (Benzoil Peroxide 5%)
10.	Name:	Dr. J. Grooms

		VA Medical Center
	Address:	Dayton, Ohio 43418
	Phone:	(513) 268-6511
	Date of Treatment:	5/85
	What Was Wrong:	Skin Disease, *Glaucoma/Field of Vision Loss
	Treatment Provided:	Tetracyline 260 Mg Caps, Timolol 0.5% Op Sol (Timoptic)
11.	Name:	Dr. Edwards Kinkopf
	Address:	2035 Miamiburg-Centerville Road Centerville, Ohio 45459
	Phone:	(513) 434-7353
	Date of Treatment:	1985
	What Was Wrong:	Job Related Stress/Hypertension
	Treatment Provided:	Available in Applicant Medical History File
12.	Name:	Dr. Charles F. Schrimpf Southview Hospital
	Address:	1997 Miamiburg Centerville Road Dayton, OH 45456
	Phone:	(513) 433-0454
	Date of Treatment:	1982, 1983, 1984
	What Was Wrong:	*Glaucoma
	Treatment Provided:	Timolol 0.5% Op Sol (Timoptic)
13.	Name:	Dr. Ralph C. Dilorio Southern Eye Clinic
	Address:	509 W. Main Street Dothan, Alabama 36301
	Phone:	(205) 794-2658
	Date of Treatment:	1981
	What Was Wrong:	*Glaucoma

	Treatment Provided:	Timolol 0.5% Op Sol (Timoptic)
14.	Name:	VA Medical Center
	Address:	42nd Street and Clement Street San Francisco, CA
	Phone:	415-221-4810
	Date of Treatment:	1979, 1980
	What Was Wrong:	*Glaucoma
	Treatment Provided:	Timolol 0.5% Op Sol (Timoptic)
15.	Name:	VA Medical Center
	Address:	1670 Clairemont Road Decatur, GA
	Phone:	404-321-6111
	Date of Treatment:	1977, 1978
	What Was Wrong:	*Glaucoma
	Treatment Provided:	Timolol 0.5% Op Sol (Timoptic)
16.	Name:	Dr. Rosenthal
	Address:	Stanford Medical Center Stanford, CA
	Phone:	415-723-2300
	Date of Treatment:	1976
	What Was Wrong:	*Glaucoma
	Treatment Provided:	Timolol 0.5% Op Sol (Timoptic)
17.	Name:	Dr. Robert L. Weisman
	Address:	25 N. 14th Street San Jose, CA 95112
	Phone:	408 Unknown
	Date of Treatment:	1971- 1975
	What Was Wrong:	*Glaucoma/Bilateral Satoma
	Treatment Provided:	Spifrin & Timolol 0.5% Op Sol (Timoptic)

18.	Name:	Dr. David Bisno, LCDR MC USNR Head, Optometry Branch
	Address:	Naval Aerospace Medical Institute Naval Aerospace Medical Center US Naval Air Station Pensacola, FL 32512
	Phone:	904-452-4354
	Date of Treatment:	5/27/71
	What Was Wrong:	*Glaucoma/Bilateral Scatomas
	Treatment Provided:	Epifrin
19.	Name:	Dr. Fisher
	Address:	Second Street San Jose, CA 95112
	Phone:	408 - Unknown
	Date of Treatment:	1972
	What Was Wrong:	*Glaucoma/Bilateral Scatomas
	Treatment Provided:	Epifrin

*Includes Bilateral Scotomas and Field of Vision Loss with Average Concentric Contraction in the Right Eye Being 24 and in the Left Eye Being 22.

20.	Name:	VA Medical Center
	Address:	215 Perry Hill Road Montgomery, AL 36193
	Phone:	(205) 272-4670
	Date of Treatment:	8/58 - 9/58
	What Was Wrong:	Occupational and Disease Injury to Eye While in the US Air Force, 1954 - 1958
	Treatment Provided:	Examination Only
21.	Name:	VA Medical Center

Address:	3200 Vine Street Cincinnati, OH 45220
Phone:	513-861-3100 ext 4366
Date of Treatment:	2/27/85
What Was Wrong:	Dermaphytosis of the Feet/Skin Disease
Treatment Provided:	Available in Applicant VA Medical Records

8. Have you had any of the following tests in the last year?
   Electrocardiogram - No
   Chest X-Ray - No
   Other X-Ray (name body part here) - No
   Breathing Tests - No
   Blood Tests - No
   Other (Specify) - No

10. Has your doctor told you to cut back or limit your activities in any way? - No.

11. Describe your daily activities in the following areas and state what and how much you do of each and how often you do it:

Household Maintenance (including cooking, cleaning, shopping, and odd jobs around the house as well as any other similar activities):
I can help my wife out.

Recreational activities and hobbies (hunting, fishing, bowling, hiking, musical instruments, etc.): - None

Social contacts (visits with friends, relatives, neighbors):
They visit me.

Other (drive car, motorcycle, ride bus, etc.)
Can drive.

#4 A summary of where you worked in past 15 years and the kind of work you did.

Date:	1988 - 7/90
Employer	Unemployed
Address	N/A
Type Work Performed	N/A
Date	1985 - 3/88
Employer	HQ US Army Aviation Systems Command
Address	4300 Goodfellow Blvd. St. Louis, MO 69120
Type Work Performed	Operations Research Analyst
Date	1982 - 7/85
Employer	HQ Air Force Logistic Command
Address	Wright-Patterson AFB, OH
Type Work Performed	Operations Research Analyst
Date	1980-12/81
Employer	US Army Aviation Center
Address	Fort Rucker, AL
Type Work Performed	Operations Research Analyst
Date	1979-9/80
Employer	HQ Sixth US Army, Persidio
Address	San Francisco, CA
Type Work Performed	Logistics Met Specialist
Date	1977-6/79
Employer	HQ US Army Forces Command
Address	Atlanta, GA
Type Work Performed	Supply System Analyst

Date	1974 - 9/77
Employer	Sharpe Army Depot
Address	Lathrop, CA
Type Work Performed	Supply Specialist
Date	1973-7/74
Employer	Harry Diamond Laboratory Red River Army Depot
Address	Texarkana, TX
Type Work Performed	Supply Intern
Date	1973-8/73
Employer	US Postal Service
Address	San Jose, CA
Type Work Performed	Postal Clerk

Part IV - Information About Your Education

12. What is the highest grade of school that you completed and when?

12 HS Grad, 1951; BS, 1959; MBA, 1976; MA, 1980

13. Have you gone to trade or vocational school or had any type of special training? - No.

Part V - Information About the Work You Did

14. List all jobs you have had in the last 15 years before you stopped working, beginning with your usual job. Normally, this will be the kind of work you did the longest. (If you have a 6th grade education or less, AND did only heavy unskilled labor for 35 years or more, list all of the jobs you have had since you began to work. If you need more space, use Part VI.)

Job Title	Research Analyst
Type of Business	US Government
Date	10/80 - 3/85
Days Per Week	5
Rate of Pay	$37,000

Job Title	Supply
Type of Business	US Government
Date	9/73 - 10/80
Days Per Week	5
Rate of Pay	Varied

15A Provide the following information for your usual job shown in item 14, line 1.

In your job did you: •Use machines, tools, or equipment of any kind? - Yes.
•Use technical knowledge or skills? - Yes.
•Do any writing, complete reports, or perform similar duties? - Yes.
•Have supervisory responsibilities? - Yes.

15B Describe your basic duties (explain what you did and how you did it) below. Also, explain all "Yes" answers by giving a FULL DESCRIPTION of: the types of machines, tools, or equipment you used and the exact operation you performed; the technical knowledge or skills involved; the type of writing you did, and the nature of any reports; and the number of people you supervised and the extent of your supervision:

Defined problems, finding solutions.

15C. Describe the kind and amount of physical activity this job involved during typical day in terms of:
•Walking (circle the number of hours a day spent walking) - 4
•Sitting (circle the number of hours a day spent sitting) - 4
•Bending (circle how often a day you had to bend) - Occasionally
•Reaching (circle how often a day you had to reach) - Occasionally
•Lifting and Carrying: Describe below what was lifted, and how far it was carried. Check heaviest weight lifted, and weight frequently lifted and/or carried:
Picked up brief cases/book etc. weighing 30 lbs or so.

Heaviest Weight Lifted - 50 lbs.
Weight Frequently Lifted/Carried - Up to 25 lbs.

Sign here - /s/ Raymond Jackson
Date - 07/16/90

Name of Claimant - Raymond Jackson
Social Security Number - 423-42-1287

17A Does the claimant speak English? - Yes

17B Does the claimant need assistance in prosecuting his or her claim? - No.

17C Can the claimant (or his representative) be readily reached by telephone with no communication problems due to language, speech or hearing difficulties? - Yes.

18A Check each item to indicate of any difficulty was observed:

Reading - No	Understanding - No
Writing - No	Using Hands - No
Answering - No	Breathing - No
Hearing - No	Seeing - No
Sitting - No	Walking - No

18C Describe the claimant fully (e.g., general build, height, weight, behavior, any difficulties that add to or supplement those noted above, etc.):
5'10-1/2"; 195 lbs; neat.

20 DO or BO curtailed completion of Parts III-V per DI 11005.035 (DI 20501.005) - No.

21 Is capability development by the DDS necessary? - No.

22 Is development of work activity necessary? - No

23 SSA-3368-BK taken by: - Personal Interview

24 Form Supplemented - No

Signature - /s/ Raymond Jackson
Date - 07/16/90

Report of Medical Examination

SS # 423-49-1287
664 068/1355
Name - Raymond Jackson
Position - Lt USN
Identification No - 644068
Home Address 820 Christy Court/Pensacola, FL 32508
Purpose of Examination - Discharge; Date, 30 June 71
Date of Examination - March 31, 1971
Sex - Male; Race - Malayan
Total Years of Service - 15; USN; VT-6, Whiting Field
Date of Birth - January 29, 1934
Place of Birth - Saltipa, AL
Next of Kin - Mrs. Rogers M. Jackson (Wife), same as #4
Examiner and Address:
Naval Air Station Pensacola, Florida 32508
Other Information - Rel:

Clinical Evaluation - #24 Eyes, Glaucoma, Simple, chronic
Both Eyes

Missing Teeth
Right Upper - 2; Right Lower - 31
Left Upper - 13, 15; Left Lower - 17, 18

Remarks and Additional Dental Defects and Diseases
Type II, Class I, Qualified

Laboratory Findings
Urinalysis: A. Specific Gravity 1.013
Albumin - Negative
Sugar - Negative
Microscopic - NAME:
Chest X-Ray #881-71 NAS PNCLA FLA, 70MM

DTD: 3/31/71; Result:
WNC

EKG - Normal
Blood Type and RH Factor - AB Neg
Other Tests - When Indicated

Measurements and Other Findings

Height - 70"; Weight - 175; Hair Color - Black
Eye Color - Brown; Build - Medium; Temperature - Normal
Blood Pressure - 110/64; Pulse - 60
Distant Vision - Right 20/200 Corr to 20/20 By -3.75 S. Sphere
Left 20/200 Corr to 20/20 by -3.75 S -0.25 CX X105

Color Vision - Passed Falant
Field of Vision - Normal
Night Vision - N/A
Red Lens Test - N/A
Intraocular Tension - Normal

Audiometer

	250 256	500 512	1000 1024	2000 2048	3000 2896	4000 4096	6000 6144	8000 8192
Right	X	5	5	5	5	10	10	X
Left	X	10	5	0	5	10	5	X

I certify that I have been informed and understand the provisions of BuMed Instruction §120.0
/s/ Raymond Jackson

74. Summary of Defects and Diagnoses (list diagnoses with item numbers)
#59 DVA Corrected to 20/20 Bilaterally NCD.
#24 Eyes, Glaucoma, simple, chronic, both eyes.

75. Recommendations - Further Specialist Examinations Indicated - None.

77. Examinee - Is Qualified for Discharge and to perform all the duties of his rank at sea or on foreign shore.

79. F.C. Newton, Lt Mc USNR NAS PNCLA FLA./s/
David C. Bisno, Ophthalmologist USNH Pncla, Fla /s/
W. K. Walker, LCDR DC USNR NAS PNCLA FLA /s/

NAVAL AEROSPACE MEDICAL INSTITUTE
NAVAL AEROSPACE MEDICAL CENTER
PENSACOLA, FLORIDA 32512

In Reply Refer To
432/him
8 June 1971

TO WHOM IT MAY CONCERN:

Lt Raymond Jackson was first seen by Ophthalmology on 27 May 1971 at which time the patient told us that his father had chronic simple glaucoma and apparently went blind from the disease. The patient presented as a 37 year old male with a pressure of 26 in the right eye and 31 in the left eye. The patient's visual acuity was corrected to 20/20 in each eye with a -3.75 sphere.

Examination of his fundi revealed bilateral deep wide cupping with poor rims in each eye and with displacement of the vessels nasally in each eye. Goldman Field examinations of each eye revealed 1) baring of the blind spot bilaterally, 2) bilateral constriction of the fields and 3) suggestive evidence of bilateral arcuate scotomas. The patient returned on numerous occasions for repeated pressures all of which were in the mid twenties to low thirties. Tonography revealed an outflow facility in the right eye of .40 and in the left eye of .14.

Because of 1) the bilateral elevated pressures, 2) pathologic cupping, 3) abnormal tonogram on the left, and 4) bilateral field changes with 5) a strong positive family history of chronic simple glaucoma, it was felt that this diagnosis was justified in this patient. The patient was started on Epifrin, 1 drop to each eye every 12 hours. The patient is leaving the Pensacola area and apparently moving to San Jose, California.

It was suggested to him that he obtain follow-up ophthalmic care in the San Jose area.

David Bisno, LCDR MC USNR /s/
Head, Optometry Branch

Department of Veterans Affairs - Rating Decision

1. Regional office No - 322
2. Type of Rating - Disability
3. Original Disability Rating?
4. C. File No. - C 20 783 486
5. Vet's Initials and Surname - R. Jackson
6. Copy to
7. Vet's Soc Sec No - 423 42 1287
8. Date of Claim - 3/20/90
9. Date of this Rating - 6/28/90
10. Date of Birth - 1/29/34
11. Date of Death.
15. Date of Last Examination - 3/21/90
16. Date of Future Physical Examination - No Exam
17. Employable (Compensation Only) - Yes
23. Narrative

J. Reopened claim

I. Entitlement to an increased evaluation for service connected glaucoma, including entitlement to a total disability evaluation due to individual unemployability.

E. VA ophthalmology examination on 3/21/90.

F. Ration of 1/4/90, is referenced for sake of brevity. He underwent a Veterans Administration eye examination on 3/29/89, and the evaluation of his service connected eye condition was increased to 30 percent based on loss of his vision. His Notice of Disagreement as to this issue was received 10/6/89, and he has completed another Veterans Administration examination. This examination indicates that his best corrected vision is 20/25 in the right eye and 20/40 in the left eye. He also has decreased field of vision with concentric contraction average in

the right eye being 24 and in the left eye being 22.

D. Based on the veteran's average concentric contraction of 24 in the right eye and 22 in the left eye, the proper evaluation assignable under DC 6080 is now 50 percent. This increase is being granted to the veteran effective 10/6/89, date of receipt of Notice of Disagreement as this date is considered a reopened date for him. Individual unemployability is not established.

1 SC

6080	Glaucoma with Bilateral Visual Field Impairment 30% from 11/4/88 - (VE INC) 50% from 10/6/89
7806	Dermatophytosis of the Feet 0% from 11/27/84 (PTE INC)

8. N.S.C. (KC, PTE)

5017	Gout
6079	Astigmatism with Bilateral vision Loss (C&D Abnormality)
6081	Bilateral Scotomas (not shown)
7817	Scalp Dermatitis
7899 - 7806	Chronic Tinea Cruris
COMB:	30% From 11/4/88 50% From 10/6/89

17 B. Individual unemployability not found.

24. Medical Rating Specialist - R. L. Dorrough, MD /s/
25. Rating Specialist - A. W. Jordan, 036 /s/
26. Rating Specialist - E. H. Teel /s/

VA Form 21-6796-1
SEP 1986

bp D(6-28-90) T(7-3-90 9751Q)

42 USCS 416(i) Disability; period of disability

(1) Except for purposes of sections 402(d), 402(e), 402(f), 423 and 425 of this title, the term "disability" means (A) inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months, or (B) blindness; and the term "blindness" means central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for purposes of this paragraph as having a central visual acuity of 20/200 or less. The provisions of paragraphs (2)(A), (2)(B), (3), (4), (5), and (6) of section 423(d) of this title shall be applied for purposes of determining whether an individual is under a disability within the meaning of the first sentence of this paragraph in the same manner as they are applied for purposes of paragraph (1) of such section. Nothing in this subchapter shall be construed as authorizing the Commissioner of Social Security or any other officer or employee of the United States to interfere in any way with the practice of medicine or with relationships between practitioners of medicine and their patients, or to exercise any supervision or control over the administration or operation of any hospital.

Veterans Administration
1240 East Ninth Street
Cleveland OH 44199

May 7, 1995
In Reply to :21/24

Raymond Jackson
174 Zengel Drive
Centerville, OH 45459

File Number
20-783-486/00
R JACKS

Your claim for Disability Compensation has been approved as follows:

Monthly Rage/ $122.00 Effective Date/12/01/84

Service connection has been established for:

Loss of Field of Vision - 20%
Dermatophytosis - 0%

Combined - 20%

The combined evaluation is not determined by adding the percentage of your disabilities as shown, but is computed by using a combined rating table.

This award is subject to recoupment of $14000.00 which represents 75% of the Readjustment Pay received from the Service department. When this amount is recovered, full compensation will be paid.

Encl: 1B 04-81-6 21-8764

42 USCS 423 (d) "Disability" defined
(1) The term "disability" means-
(A) inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months; or
(B) in the case of an individual who has attained the age of 55 and is blind (within the meaning of "blindness" as defined in section 416(i)(1) of this title), inability by reason of such blindness to engage in substantial gainful activity requiring skills or abilities comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time.

(2) For purposes of paragraph (1)(A)
(A) An individual shall be determined to be under a disability only if his physical or mental impairment or impairments are of such severity that he is not only unable to do his previous work but cannot, considering his age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which he lives, or whether a specific job vacancy exists for him, or whether he would be hired if he applied for work. For purposes of the preceding sentence (with respect to any individual), "work which exists in the national economy" means work which exists in significant numbers either in the region where such individual lives or in several regions of the country.
(B) In determining whether an individual's physical or mental impairment or impairments are of a sufficient medical severity that such impairment or impairments could be the basis of eligibility under this section, the Commissioner of Social Security shall consider the combined effect of all of the

individual's impairments without regard to whether any such impairment, if considered separately, would be of such severity. If the Commissioner of Social Security does find a medically severe combination of impairments, the combined impact of the impairments shall be considered throughout the disability determination process.

(B) In making any determination with respect to whether an individual is under a disability or continues to be under a disability, the Commissioner of Social Security shall consider all evidence available in such individual's case record, and shall develop a complete medical history of at least the preceding twelve months for any case in which a determination is made that the individual is not under a disability. In making any determination the Commissioner of Social Security shall make every reasonable effort to obtain from the individual's treating physician (or other treating health care provider) all medical evidence, including diagnostic tests, necessary in order to properly make such determination, prior to evaluating medical evidence obtained from any other source on a consultative basis.

20 CFR 416.920(d) Evaluation of Disability of Adults
When your impairment(s) meets or equals a listed impairment in appendix 1. If you have an impairment(s) which meets the duration requirement and is listed in appendix 1 or is equal to a listed impairment(s), we will find you disabled without considering your age, education, and work experience.

20 CFR 416.920a Evaluation of Mental Impairments (a) General

The steps outlined in §416.920 apply to the evaluation of physical and mental impairments. In addition, in evaluating the severity of mental impairments for adults (persons age 18 and over) and in persons under age 18 when part A of the Listing of Impairments is used, a special procedure must be followed by us at each level of administrative review. Following this procedure will assist us in:

(1) Identifying additional evidence necessary for the determination of impairment severity;

(2) Considering and evaluating aspects of the mental disorder(s) relevant to your ability to work; and

(3) Organizing and presenting the findings in a clear, concise, and consistent manner.

20 CFR 404.1520(d) Evaluation of Disability in General

(d) When your impairment(s) meets or equals a listed impairment in appendix 1. If you have an impairment(s) which meets the duration requirement and is listed in appendix 1 or is equal to a listed impairment(s), we will find you disabled without considering your age, education, and work experience.

20 CFR 404.1520a Evaluation of Mental Impairments

(a) General. The steps outlined in §404.1520 apply to the evaluation of physical and mental impairments. In addition, in evaluating the severity of mental impairments for adults

(persons age 28 and over) and in persons under age 18 when Part A of the Listing of Impairments is used, a special procedure must be followed by us at each level of administrative review. Following this procedure will assist us in:

(1) Identifying additional evidence necessary for the determination of impairment severity;

(2) Considering and evaluating aspects of the mental disorder(s) relevant to your ability to work; and

(3) Organizing and presenting the findings in a clear, concise and consistent manner.

20 CFR §404.1523 Multiple Impairments.

In determining whether your physical or mental impairment or impairments are of a sufficient medical severity that such impairment or impairments could be the basis of eligibility under the law, we will consider the combined effect of all of your impairments without regard to whether any such impairment, if considered separately, would be of sufficient severity. If we do find a medically severe combination of impairments, the combined impact of the impairments will be considered throughout the disability determination process. If we do not find that you have a medically severe combination of impairments, we will determine that you are not disabled (see §404.1520).

20 CFR § 404.1525 Listing of Impairments in Appendix 1.

(a) Purpose of the Listing of Impairments. The Listing of Impairments describes, for each of the major body systems, impairments which are considered severe enough to prevent a person from doing any gainful activity. Most of the listed impairments are permanent or expected to result in death, or a specific statement of duration is made. For all others, the evidence must show that the impairment has lasted or is expected to last for a continuous period of at least 12 months.

20 CFR § 404.1526 Medical Equivalence.

(a) How medical equivalence is determined. We will decide that your impairment(s) is medically equivalent to a listed impairment in appendix 1 if the medical findings are at least equal in severity and duration to the listed findings. We will compare the symptoms, signs, and laboratory findings about your impairment(s), as shown in the medical evidence we have about your claim, with the medical criteria, which with the listed impairment. If your impairment is not listed, we will consider the listed impairment most like your impairment to

decide whether your impairment is medically equal. If you have more than one impairment, and none of them meets or equals a listed impairment, we will review the symptoms, signs, and laboratory findings about your impairments to determine whether the combination of your impairments is medically equal to any listed impairment.

IV 42 USCS 405 Evidence, Procedure and Certification for Payments.

(g) Judicial Review

Any individual, after any final decision of the Secretary made after a hearing to which he was a party, irrespective of the amount in controversy, may obtain a review of such decision by a civil action commenced within sixty days after the mailing to him of notice of such decision or within such further time as the Secretary may allow. Such action shall be brought in the district court of the United States for the judicial district in which the plaintiff resides, or has his principal place of business, or, if he does not reside or have his principal place of business within any such judicial district, in the United States District Court for the District of Columbia. As a part of his answer the Secretary shall file a certified copy of the transcript of the record including the evidence upon which the findings and decision complained of are based. The court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Secretary, with or without remanding the cause for a rehearing. The findings of the Secretary as to any fact, if supported by substantial evidence, shall be conclusive, and where a claim has been denied by the Secretary or a decision is rendered under subsection (b) of this section which is adverse to an individual who was a party to the hearing before the Secretary, because of failure of the claimant or such individual to submit proof in conformity, with any regulation prescribed under subsection (a) of this section, the court shall review only the question of conformity with such regulations and the validity of such regulations. The court may, on motion of the Secretary made for good cause shown before he files his answer, remand the case to the Secretary for further action by the Secretary, and it may at any time order additional evidence to be taken before the Secretary, but only upon a showing that there is new evidence which is material and that

there is good cause for the failure to incorporate such evidence into the record in a prior proceeding; and the Secretary shall, after the case is remanded, and after hearing such additional evidence if so ordered, modify or affirm his findings of fact or his decision, or both, and shall file with the court any such additional and modified findings of fact and decision shall be reviewable only to the extent provided for review of the original findings of fact and decision. The judgment of the court shall be final except that it shall be subject to review in the same manner as a judgment in other civil actions. Any action instituted in accordance with this subsection shall survive notwithstanding any change in the person occupying the office of Secretary or any vacancy in such office.

(U) Redetermination of Entitlement

(1)(A) The Commissioner of Social Security shall immediately redetermine the entitlement of individuals to monthly insurance benefits under this subchapter if there is reason to believe that fraud or similar fault was involved in the application of the individual for such benefits, unless a United States Attorney, or equivalent State prosecutor, with jurisdiction over potential or actual related criminal cases, certifies, in writing, that there is a substantial risk that such action by the Commissioner of Social Security with regards to beneficiaries in a particular investigation would jeopardize the criminal prosecution of a person involved in a suspected fraud.

(B) When redetermining the entitlement, or making an initial determination of entitlement, of an individual under this subchapter, the Commissioner of Social Security shall disregard any evidence if there is reason to believe that fraud or similar fault was involved in the providing of such evidence.

(2) For purposes of paragraph (1), similar fault is involved with respect to a determination if

(A) An incorrect or incomplete statement that is material to the determination is knowingly made; or

(B) Information that is material to the determination is knowingly concealed.

III. 20 CFR Ch.111 (4/1/95 Edition) Social Security Administration, HHS, Part 404, Subpt. P, App. 1 - Listing of Impairments

Part A

Section 2.00 Special Senses and Speech

A. Ophthalmology

7. Statutory blindness. The term "statutory blindness" refers to the degree of visual impairment which defines the term "blindness" in the Social Security Act. Both 2.02 and 2.03 A and B denote statutory blindness.

Section 2.03 Contraction of peripheral visual field in the better eye.

B. So the widest diameter subtends an angle to greater than 20 degrees.

Section 9.08 Diabetes mellitus. With: B. Acidosis occurring at least on the average of once ever 2 months, documented by appropriate blood chemical tests (Phone: or CO_2) or biocarbonate (diabetic acidosis).

Section 5.08 Weight loss due to any persisting gastrointestinal disorder: (The following weights are to be demonstrated to have persisted for at least 3 months despite prescribed therapy and expected to persist at this level for at least 12 months.) With: B. Weight equal to or less than the values specified in Table III or IV and one of the following abnormal findings on repeated examinations: (4) Uncontrolled diabetes mellitus due to pancreatic dysfunction with repeated hyperglycemia, hypoglycemia, or ketosis.

Section 8.04. Deep-mycotic infections. With extensive fungating, ulcerating lesions not responding to prescribed treatment.

Application for Disability Insurance Benefits

I apply for a period of disability and/or all insurance benefits for which I am eligible under Title II and Part A of Title XVIII of the Social Security Act, as presently Amended.

My name is Raymond Jackson.

My Social Security Number is 423-42-1287.

My date of birth is January 29, 1934.

I became unable to work because of my disabling condition on March 30, 1988.

I am still disabled.

No previous application has been filed with the Social Security Administration by or for me.

I have never had nor do I expect to have eligibility for a Federal Agency monthly benefit based in whole or in part on my military service.

I have not filed nor do I intend to file for any workers' compensation, public disability or black lung benefits.

I am entitled to or I expect to become entitled to a pension or annuity based in whole or in part on work after 1956 not covered by Social Security.

I became entitled, or I expect to become entitled, to the pension or annuity beginning April 1988.

I became eligible, or I expect to become eligible, for the pension or annuity beginning April 1988.

The Social Security Administration and the State Agency reviewing my claim does have my permission to contact my employers.

I am married to Rogers M. Curry. We were married on July 25, 1961 in Memphis, TN by a clergyman or public official. My spouse's age or birthdate is October 21, 1933 and social security number is 141-22-9024.

I was not previously married.

I do not have any children who may be eligible for social security benefits.

I understand that I must provide medical evidence about my disability, or assist the Social Security Administration in obtaining the evidence.

I understand that I may be requested by the State Disability Determination Services to have an independent medical examination at the expense of the Social Security Administration.

I authorize any physician, hospital, agency, or other organization to disclose any medical record or information about my disability to the Social Security Administration or to the State Agency that may review my claim or continuing disability.

I authorize the Social Security Administration to release any information about me to a physical or medical facility preparatory to an examination or test. Results of such

examination or test may be released to my physician or other treating source.

I authorize that information about my disability may be furnished to any contractor for clerical services by the State Disability Determination Services.

I agree to notify the Social Security Administration of all the events as explained in the Rights and Responsibilities Pamphlet given to me.

I agree to notify the Social Security Administration if:

-- My medical condition improves so that I would be able to work, even though I have not yet returned to work.
-- I go to work whether as an employee or a self-employed person.
-- I apply for or receive a decision on benefits under any workers' compensation law or plan (including black lung benefits from the Department of Labor), or other public benefit based on disability.
-- I a imprisoned for conviction of a felony.

The above events may affect my eligibility to disability benefits as provided in the Social SECURITY Act, as amended.

I agree to notify the Social Security Administration if I become entitled to a pension or annuity based on employment after 1956 not covered by Social Security, or if such pension or annuity stops.

My reporting responsibilities have been explained to me.

I know that anyone who makes or causes to be made a false statement or representation of material fact in an application or for use in determining a right to payment under the Social Security Act commits a crime punishable under Federal Law by

fine, imprisonment or both. I affirm that all information I have given in connection with this claim is true.

My mailing address is: 225 Conrad Street/Montgomery, AL 36110

My telephone number is (205) 265-8801.

Raymond Jackson /s/
7/16/90

Disability Determination Rationale

Name of Claimant - Raymond Jackson
SSN - 423-42-1287
Type of Claim - MQFE

The following reports had enough information to evaluate your disability. If sufficient evidence was not obtained, the reason is explained below.

Harold C. Hatcher, MD, report dated April 5, 1990
Mark D. Veres, DPM, report dated September 6, 1989
Veterans Medical Center, Report dated September 5, 1990 and August 22, 1990

You said you were unable to work because of glaucoma.

The medical evidence showss you do have glaucoma but you failed to keep the exam we set up for you which would determine the current severity of your condition. There is insuficient evidence to establish the existence of a disabling condition.

Disability Examiner DDS - 1B432 SHD /s/
Date - 01/04/91

FACTS ABOUT YOUR SOCIAL SECURITY
February 2, 1989

THE FACTS YOU GAVE US
Your Name - Raymond Jackson
Your Social Security Number - 423-42-1287
Your Date of Birth - January 29, 1934
1988 Earnings - $36,486
1989 Earnings - $27,172
Your Estimated Future Average Yearly Earnings - $27,172
The Age You Plan To Retire - 55

We used these facts and the information already on our records to prepare this statement for you. When we estimated your benefits, ew included any 1988 and 1989 earnings you told us about. We also included any future estimated earnings up to the age you told us you plan to retire.

If you did not estimate your future earnings, we did not project any future earnings for you.

YOUR SOCIAL SECURITY EARNINGS
The chart below shows the earnings on your Social Security record. It also estimates the amount of Social Security taxes you paid each year to finance benefits under Social Security and Medicare. We show earnings only up to the maximum amount of yearly earnings covered by Social Security. These maximum amounts are also shown on the chart. The chart may not include some or all of your earnings from last year because they may not have been posted to your record yet.

Years - 1937 - 1950
Maximum Yearly Earnings Subject to Social Security Tax - $3,000

Your Social Security Taxed Earnings - $0
Estimated Social Security Taxes You Paid - $0

Years - 1951
Maximum Yearly Earnings Subject to Social Security Tax - $3600
Your Social Security Taxed Earnings - 54
Estimated Social Security Taxes You Paid - 0

Years - 1952
Maximum Yearly Earnings Subject to Social Security Tax - 3600
Your Social Security Taxed Earnings - 1406
Estimated Social Security Taxes You Paid - 21

Years - 1953
Maximum Yearly Earnings Subject to Social Security Tax - 3600
Your Social Security Taxed Earnings - 3401
Estimated Social Security Taxes You Paid - 51

Years - 1954
Maximum Yearly Earnings Subject to Social Security Tax - 3600
Your Social Security Taxed Earnings - 773
Estimated Social Security Taxes You Paid - 15

Years - 1955
Maximum Yearly Earnings Subject to Social Security Tax - 4200
Your Social Security Taxed Earnings - 0
Estimated Social Security Taxes You Paid - 0

Years - 1956
Maximum Yearly Earnings Subject to Social Security Tax - 4200

Your Social Security Taxed Earnings - 0
Estimated Social Security Taxes You Paid - 0

Years - 1957
Maximum Yearly Earnings Subject to Social Security Tax - 4200
Your Social Security Taxed Earnings - 1778
Estimated Social Security Taxes You Paid - 40

Years - 1958
Maximum Yearly Earnings Subject to Social Security Tax - 4200
Your Social Security Taxed Earnings - 1071
Estimated Social Security Taxes You Paid - 24

Years - 1959
Maximum Yearly Earnings Subject to Social Security Tax - 4800
Your Social Security Taxed Earnings - 0
Estimated Social Security Taxes You Paid - 0

Years - 1960
Maximum Yearly Earnings Subject to Social Security Tax - 4800
Your Social Security Taxed Earnings - 1155
Estimated Social Security Taxes You Paid - 34

Years - 1961
Maximum Yearly Earnings Subject to Social Security Tax - 4800
Your Social Security Taxed Earnings - 4050
Estimated Social Security Taxes You Paid - 121

Years - 1962
Maximum Yearly Earnings Subject to Social Security Tax - 4800

Your Social Security Taxed Earnings - 4438
Estimated Social Security Taxes You Paid - 138

Years - 1963
Maximum Yearly Earnings Subject to Social Security Tax - 4800
Your Social Security Taxed Earnings - 4800
Estimated Social Security Taxes You Paid - 174

Years - 1964
Maximum Yearly Earnings Subject to Social Security Tax - 4800
Your Social Security Taxed Earnings - 4800
Estimated Social Security Taxes You Paid - 174

Years - 1965
Maximum Yearly Earnings Subject to Social Security Tax - 4800
Your Social Security Taxed Earnings - 4800
Estimated Social Security Taxes You Paid - 174

Years - 1966
Maximum Yearly Earnings Subject to Social Security Tax - 6600
Your Social Security Taxed Earnings - 6600
Estimated Social Security Taxes You Paid - 277

Years - 1967
Maximum Yearly Earnings Subject to Social Security Tax - 6600
Your Social Security Taxed Earnings - 6600
Estimated Social Security Taxes You Paid - 290

Years - 1968
Maximum Yearly Earnings Subject to Social Security Tax - 7800

Your Social Security Taxed Earnings - 7800
Estimated Social Security Taxes You Paid - 343

Years - 1969
Maximum Yearly Earnings Subject to Social Security Tax - 7800
Your Social Security Taxed Earnings - 7800
Estimated Social Security Taxes You Paid - 343

Years - 1970
Maximum Yearly Earnings Subject to Social Security Tax - 7800
Your Social Security Taxed Earnings - 7800
Estimated Social Security Taxes You Paid - 374

Years - 1971
Maximum Yearly Earnings Subject to Social Security Tax - 7800
Your Social Security Taxed Earnings - 7649
Estimated Social Security Taxes You Paid - 397

Years - 1972
Maximum Yearly Earnings Subject to Social Security Tax - 9000
Your Social Security Taxed Earnings - 9000
Estimated Social Security Taxes You Paid - 468

Years - 1973
Maximum Yearly Earnings Subject to Social Security Tax - 10,800
Your Social Security Taxed Earnings - 656
Estimated Social Security Taxes You Paid - 38

Years - 1974
Maximum Yearly Earnings Subject to Social Security Tax - 13,200

Your Social Security Taxed Earnings - 0
Estimated Social Security Taxes You Paid - 0

Years - 1975
Maximum Yearly Earnings Subject to Social Security Tax - 14,100
Your Social Security Taxed Earnings - 1366
Estimated Social Security Taxes You Paid - 79

Years - 1976
Maximum Yearly Earnings Subject to Social Security Tax - 15,300
Your Social Security Taxed Earnings - 1489
Estimated Social Security Taxes You Paid - 87

Years - 1977
Maximum Yearly Earnings Subject to Social Security Tax - 16,500
Your Social Security Taxed Earnings - 857
Estimated Social Security Taxes You Paid - 50

Years - 1978
Maximum Yearly Earnings Subject to Social Security Tax - 17,700
Your Social Security Taxed Earnings - 728
Estimated Social Security Taxes You Paid -

Years - 1979
Maximum Yearly Earnings Subject to Social Security Tax - 22,900
Your Social Security Taxed Earnings - 832
Estimated Social Security Taxes You Paid -

Years - 1980
Maximum Yearly Earnings Subject to Social Security Tax - 25,900

Your Social Security Taxed Earnings - 0
Estimated Social Security Taxes You Paid - 0

Years - 1981
Maximum Yearly Earnings Subject to Social Security Tax - 29,700
Your Social Security Taxed Earnings - 0
Estimated Social Security Taxes You Paid - 0

Years - 1982
Maximum Yearly Earnings Subject to Social Security Tax - 32,400
Your Social Security Taxed Earnings - 0
Estimated Social Security Taxes You Paid - 0

Years - 1983
Maximum Yearly Earnings Subject to Social Security Tax - 35,700
Your Social Security Taxed Earnings - 0
Estimated Social Security Taxes You Paid - 0

Years - 1984
Maximum Yearly Earnings Subject to Social Security Tax - 37,800
Your Social Security Taxed Earnings - 0
Estimated Social Security Taxes You Paid - 0

Years - 1985
Maximum Yearly Earnings Subject to Social Security Tax - 39,600
Your Social Security Taxed Earnings - 20,511
Estimated Social Security Taxes You Paid - 1446

Years - 1986
Maximum Yearly Earnings Subject to Social Security Tax - 42,000

Your Social Security Taxed Earnings - 0
Estimated Social Security Taxes You Paid - 0

Years - 1987
Maximum Yearly Earnings Subject to Social Security Tax - 43,800
Your Social Security Taxed Earnings - 0
Estimated Social Security Taxes You Paid - 0

Years - 1988
Maximum Yearly Earnings Subject to Social Security Tax - 45,000
Your Social Security Taxed Earnings - Net Yet Posted
Estimated Social Security Taxes You Paid - Not Yet Posted

Years - 1989
Maximum Yearly Earnings Subject to Social Security Tax - 48,000
Your Social Security Taxed Earnings - Not Yet Posted
Estimated Social Security Taxes You Paid - Not Yet Posted

In addition to your covered Social Security earnings, you also have government earnings on your record which will help you qualify for medicare coverage in the future.

YOUR SOCIAL SECURITY CREDITS
To qualify for benefits, you need credit for a certain amount of work covered by Social Security. (See "How You Earn Social Security Credits" on the reverse side.) The number of credits you need will vary with the type of benefit. Under current law, you do not need more than 40 credits to be fully insured for any benefit.

Our review of your earnings, including any 1988 and 1989 earnings you told us about, shows that you now have at least 40 Social Security credits.

ESTIMATED BENEFITS

RETIREMENT

You must have 40 Social Security credits to be fully insured for retirement benefits. Assuming that you meet all the requirements, here are estimates of your retirement benefits based on your past and any projected earnings. The estimates are in today's dollars, but adjusted to account for average wage growth in the national economy.

If you retire at age 55, your monthly benefit at age 62 in today's dollars would be about $420.

The earliest age at which you can receive an unreduced retirement benefit is 65 years of age. We call this your full retirement age. If you work until that age and then retire, your monthly benefit in today's dollars will be about $745.

If you continue to work and wait until you are 70 to receive benefits, your monthly benefit in today's dollars will be about $1,080.

SURVIVORS

If you have a family, you must have 33 Social Security credits for certain family members to receive benefits if you were to die this year. They may also qualify if you earn 6 credits in the 3 years before your death. The number of credits a person needs to be insured for survivors benefits increases each year until age 62, up to a maximum of 40 credits.

Here is an estimate of the benefits your family could receive if you had enough credits to be insured, they qualified for benefits, and you died this year:

Your child could receive a monthly benefit of about $435.

If your child and your surviving spouse who is caring for your child both qualify, they could each receive a monthly benefit of about $435.

When your surviving spouse reaches full retirement age, he or she could receive a monthly benefit of about $585.
The total amount that we could pay your family each month is about $1,075.
We may also be able to pay your surviving spouse or children a one-time death benefit of _____.

DISABILITY
Right now, you must have 33 Social Security credits to be insured for disability benefits. And, 20 of these credits had to be earned in the 10 year period immediately before you became disabled. If you are blind or received disability benefits in the past, you may need fewer credits. The number of credits a person needs to be insured for disability benefits increases each year until age 62, up to a maximum of 40 credits.

If you were disabled, had enough credits, and met the other requirements for disability benefits, here is an estimate of the benefits you could receive right now:
Your monthly benefit would be about $560
You and your eligible family members could receive up to a monthly total of about $845.

IF YOU HAVE QUESTIONS
If you have any questions about this statement, please read the information on the reverse side. If you still have questions, please call 1-800-937-7005.

Form 10-1338 Work Copy
Tuskegee VA Medical Center Clinical Laboratory Report

Jackson, Raymong 8/14/92 14:08
SSN 423-42-1267; Sex M; Age 58; Loc: Eval

Prepared by: Feberio A
Specimen: Serlm Ch 0814 72
08/14/92 10:08

Test Name - Glucose
Result - 334. H
Units - mg/dL
Ref. Range - 70 - 100

Test Name - Urea Nitrogen
Result - 7. L
Units - mg/dL
Ref. Range - 8 - 20

Test Name - Oreatinine
Result - 1.1
Units - mg/dL
Ref. Range - .5 - 1.4

Test Name - Sodium
Result - 140.
Units - meg/L
Ref. Range - 137 - 145

Test Name - Potassium
Result - 4.3
Units - meg/L
Ref. Range - 3.6 - 5

Test Name - Chloride
Result - 100. L
Units - mmol/L
Ref. Range - 101 - 111

Test Name - 8802
Result - 27.0
Units - mmol/L
Ref. Range - 22 - 31

Key: "L" = Abnormal Low
"H" = Abnormal High
"*" = Critical Value

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 1995

NO.

RAYMOND JACKSON,

PETITIONER,

VS.

SHIRLEY S. CHATER,

COMMISSIONER OF SOCIAL SECURITY

RESPONDENT.

PROOF OF SERVICE

I, Raymond Jackson, do swear or declare that this date, August 15, 1996, pursuant to Supreme Court Rules 29.3 and 29.4, I have served the Petition for a Writ of Certiorari on each party to the above proceeding, or that party's counsel, and on every other person required to be served by depositing an envelope containing the above documents in the UNITED STATES POSTAL SERVICE (USPS) mail properly addressed to each of them and postage prepaid.

The names and addresses of those served are as follows:

1) Solicitor General of the United States, Room 5614, Department of Justice, 10th Street and Constitution Avenue, NW, Washington, DC, 20530, 3 copies. (202) 514-2000.

2) Shirley S. Chater, Commissioner of Social Security, 900 AB Altmeyers Bldg, 6401

Security Blvd., Baltimore, MD 21235, 3 copies, (410) 965-3120.

3) Office of the Clerk, Supreme Court of the United States, 1 First Street, NE, Washington, DC 20543, 40 copies, (202) 479-3011.

I certify, under penalty for perjury under laws of the United States of America, that the foregoing is true and correct (28 US 1746).

Date: 8/15/96

Raymond Jackson

Raymond Jackson
Counsel of Record
225 Conrad Street
Montgomery, AL 36110
(334) 265-8801
Counsel for Petitioner